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56TH ANNUAL REPORT
OF THE
INTERSTATE COMMERCE
COMMISSION



NOVEMBER 1, 1942



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1942

INTERSTATE COMMERCE COMMISSION

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REPORT OF THE INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C., *November 2, 1942.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its fifty-sixth annual report to the Congress. The period covered by this report extends from November 1, 1941, to October 31, 1942, except as otherwise noted.

A statement of appropriations and aggregate expenditures for the fiscal year ended June 30, 1942, is contained in appendix F to this report.

TRANSPORTATION AND THE WAR

The declarations of war early in the period covered by this report served to heighten the concern so widely prevalent in the latter part of 1941 as to whether the various transportation agencies of the country, particularly the railroads, would be equal to the increasing burdens being imposed on them by the national defense program, which we described in our last annual report. Particularly there arose the question whether, as in the first World War, the President would find it necessary to assume control of the principal systems of transportation within the continental United States.

It was readily apparent, however, that conditions in December 1941 differed in many material respects from those which led to Federal control of railroads at the end of 1917. The railroads were still the keystone of the domestic transportation system. Although their equipment had decreased numerically over a series of years, improved operating methods and mechanical capacity had materially increased the amount of work which they could perform. Important auxiliary means of transportation by highway, water, pipe line, and air had been extensively developed, and at the time of our entry into the war were carrying substantial volumes of the Nation's freight and passengers.

The railroads were much better organized for centralized action than they were when Federal control was assumed in 1917; and governmental agencies had largely avoided the conflicts over priorities in transportation which had so disturbing an effect in that year.

Highway and water transportation had been brought under Federal regulation, and the plants of the motor and water carriers had been expanded both as to geographical areas served and the number of units in operation. Our emergency powers with respect to the movement of traffic by rail had been considerably widened by the Transportation Act of 1920, and were shortly to be extended with respect to motor transport by the Second War Powers Act, 1942.

The railroads were confronted with menacing labor disputes in 1917. A similar situation existed about the time of the beginning of our active participation in the present war, but a timely composition was reached which avoided this obstacle to efficient operation. In 1917 the railroads faced the problem of raising large sums for necessary capital expenditures and for refinancing. They thus were competitors of the Government in the money market at a time when Government borrowing was at the highest rate in history. The Reconstruction Finance Corporation, now coordinated with other agencies within the Federal Loan Agency, has been able to supplement deficiencies in the private credit available to the railroads and other transport concerns.

The rate situation in 1917 was considered unfavorable, as the rail carriers felt that they were caught between frozen Federal and State commission-made rates and the upswing in wages and material costs. Early in 1942, an adjustment of freight and passenger charges, elsewhere discussed in this report, was accomplished in a relatively short period of time following the Pearl Harbor attack. Orders of the Office of Price Administration have considerably stabilized the costs of materials used by the railroads.

On the other hand, the unexpected development of an acute shortage of rubber for civilian use and the disruption of coastwise and inter-coastal traffic by water, due to enemy action, foreshadowed the imposition of an increasing and severe strain on the railroad system, with every sign that improvement would be long deferred. The shortage of steel, fuel, and raw materials manifestly prevented any hope of constructing an important amount of new equipment for land or water carriers. This shortage was at once a product of the diversion of manpower and materials to direct military purposes, and of the lessened proportion of the total transportation available which could be assigned to production of other goods.

Upon the formal entry of the country into the war, the President considered the time ripe for putting into effect a plan which had been under consideration for some time to coordinate the agencies and resources of the Government and of the carriers with a view to meeting the wartime needs for transportation. Three courses were open

to the President. He could have proceeded under the Act of August 29, 1916 (10 U. S. C. 1361) "through the Secretary of War, to take possession and assume control of any system or systems of transportation, or any part thereof, and to utilize the same, to the exclusion as far as may be necessary of all other traffic thereon, for the transfer or transportation of troops, war material and equipment, or for such other purposes connected with the emergency as may be needful or desirable." This was the statute under which President Wilson acted in December 1917. The President could have assumed possession and control under this act, and thereafter could have employed his powers in a manner which fell short of actual Government operation, or to an extent so limited as not to oust the owners of the properties from beneficial occupancy. Or, either directly or through his designated agent, he could utilize the existing agencies provided by law, particularly his own constitutional and statutory powers as Commander in Chief, to direct priority and require movement of troops and material, making use also of the voluntary cooperation of organizations of carriers and shippers.

The President adopted the third course. By Executive Order No. 8989, December 18, 1941, the President established the Office of Defense Transportation in the Office for Emergency Management of the Executive Office of the President and defined its functions and duties. This action was taken by virtue of his constitutional and statutory authority as President and Commander in Chief of the Army and Navy. It was not based upon the act of August 29, 1916, before referred to, and the Secretary of War was not made the medium of exercising this authority. The order provided for a Director who "shall discharge and perform his responsibilities and authorities under the direction and supervision of the President."

No procedure of quasi-judicial character or for judicial review of orders of the Office of Defense Transportation was prescribed by the Executive Order. The President directed that "in the study of problems and in a discharge of its responsibilities, it shall be the policy of the Office of Defense Transportation to collaborate with existing departments and agencies which perform functions and activities pertaining to transportation and utilize their facilities and services to the maximum." Particularly this liaison was directed with "the United States Maritime Commission for the consideration of problems involving relations of ocean shipping with coastwise and inter-coastal shipping and inland transport; with the Interstate Commerce Commission on problems of rates, routing, and car service; and with the War and Navy Departments with respect to the strategic movement of troops and supplies by domestic transportation carriers."

The term "domestic transportation," as used in the order was defined as including "railroad, motor, inland waterway, pipe line, air transport, and coastwise and intercoastal shipping."

By a later Executive Order, No. 9156, dated May 2, 1942, the functions of the Office of Defense Transportation were widened to include within the scope of its authority and responsibility, all rubber-borne transportation facilities, including passenger cars, busses, taxicabs, and trucks.

The President designated the then Chairman of the Interstate Commerce Commission, Commissioner Joseph B. Eastman, to be the Director of the Office of Defense Transportation. Commissioner Eastman has retained his office of Commissioner, with inactive status, while acting as Director. As authorized in the original executive order, the Director has utilized the personnel, facilities, and services of this Commission to an important extent, particularly the field force of the Bureau of Motor Carriers. As required by the Executive Order setting up the Office of Defense Transportation, we have designated our Chairman for the time acting as such, to maintain liaison with that Office. We have given to the Director and his staff every aid possible in the administration of his difficult task.

The only statutory powers delegated to the Office of Defense Transportation which affect the work of this Commission are those vested in the President by sections 1 (15) and 6 (8) of the Interstate Commerce Act. The first of these provides that "in time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded." The second provides "that in time of war or threatened war preference and precedence shall, upon demand of the President of the United States, be given over all other traffic for the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic."

The first of these delegated powers, that created by section 1 (15), which applies in connection with concurrent action by this Commission, has not as yet been utilized by the Office of Defense Transportation. Considerable use has been made of the second power created by section 6 (8). That provision has been interpreted as self-executing, without the aid of any of the powers conferred upon the Commission.

The Office of Defense Transportation has issued a number of general orders, and several of these have to do generally with what is defined as "car service" in section 1 (10) of the Interstate Commerce

Act, for the stated purpose of making available transportation facilities and equipment for the preferential transportation of materials of war "as contemplated by section 6 (8) of the Interstate Commerce Act, as amended." Thus it appears that the paragraph last referred to is not interpreted as merely authorizing issuance of specific preference orders to the carriers, but as including power also to compel them to adopt operating practices necessary in the view of the Office of Defense Transportation to assure the preference and precedence to military traffic. In some general orders, this power under part I of the act has been used as the basis of general orders to motor carriers and water carriers.

Simultaneously, we have undertaken to administer the emergency powers committed to us under section 1 (15) of the Interstate Commerce Act, and those more recently provided in the Second War Powers Act, and will continue to do so, while we endeavor to avoid duplication and conflict with respect to similar functions being exercised by the Office of Defense Transportation. A more complete account of our activities under these powers is to be found elsewhere in this report.

Thus far the domestic transportation agencies of the country have met the wartime demands upon them. This success has been due largely to the fact that their physical plant and equipment had been maintained in good condition during the period immediately prior to our entry into the war when labor and materials were available, and to the further fact that carriers and shippers have worked diligently and harmoniously to promote economy in the use of transportation. Carriers and shippers alike have sought to avoid necessity for a comprehensive and direct Federal control of transportation such as that of 1917-20. The only step taken in that direction so far, when the President in March last directed the Office of Defense Transportation to take possession of the Toledo, Peoria & Western Railroad, grew out of a condition local in nature.

It seems safe to say that the continuance of sufficient transportation during the war depends more on adequate maintenance and replacement of physical plant and equipment of the carriers than any other factor. Some increase in equipment is also clearly necessary. On this point we said in our report a year ago (at page 5):

As this is being written, there is cause for apprehension that, in the allocation of the metals of which there is a shortage, the railroads may be deprived of the materials necessary for the prompt construction of this new equipment, or even be unable to obtain an adequate supply of materials for the repair of the motive power and cars which are now in service and of the way and structures over which they operate. Already the construction of the new equipment has, it seems, been substantially delayed, and stocks of materials necessary for

repairs are rapidly being depleted. This is, we believe, now the greatest and most imminent danger which threatens the provision of adequate and efficient railroad service during the remainder of the emergency. It is essential to the national welfare that this danger be removed.

We also pointed out that the situation was substantially the same as to motor carriers and water carriers, although no one then could anticipate the shortage of rubber and other critical materials, and the rationing of fuel oils and gasoline. The latter factors have intensified the problem. Unless there can be allocations of sufficient materials to the transportation agencies to permit them to maintain, renew, and operate their plants, so that they may continue their present standards of service, more restrictive Government control of the use of transportation service will necessarily follow.

TRAFFIC AND EARNINGS OF TRANSPORT AGENCIES

The total operating revenues of all common carriers subject to our jurisdiction amounted to over \$8,600,000,000 for the 12 months' period ended June 30, 1942. This is larger than the corresponding total for any prior 12 months' period. The total is subdivided by agencies of transport as follows, with figures for the calendar years 1940 and 1941 added for comparison:

*Operating revenues*¹

Class of carrier	12 months ended June 30, 1942		Year ended Dec. 31, 1941		Year ended Dec. 31, 1940
	Amount	Percent of 1940	Amount	Percent of 1940	Amount
	<i>Thousands</i>		<i>Thousands</i>		<i>Thousands</i>
Steam railways.....	\$6,428,000	144.1	\$5,540,956	124.3	\$4,459,289
Railway Express Agency ²	143,785	119.9	135,262	112.8	119,957
Pullman Company.....	78,528	130.7	67,001	111.5	60,096
Electric railways.....	70,000	132.9	58,508	111.1	52,661
Water lines ³	165,000	77.8	229,000	108.0	212,000
Pipe lines.....	247,000	109.4	251,685	111.5	225,760
Motor carriers of passengers.....	297,000	163.2	231,000	126.9	⁴ 182,000
Motor carriers of property.....	1,246,000	135.2	1,167,000	126.6	⁴ 922,000
Total.....	8,675,313	139.2	7,680,412	123.2	6,233,763

¹ Partly estimated for small carriers.

² Excludes payments to others for express privileges.

³ Covers carriers of classes A and B filing quarterly reports. Figures for 1940 and 1941 changed from those given last year to correspond with 1942 coverage.

⁴ Figures restated on bases of more complete data.

Our jurisdiction does not extend over all forms of transportation and hence the above table does not give a complete view of all transportation for hire. There have recently become available the 1940 census figures showing the distribution of employed persons by occupations. The number of persons employed in each type of transportation is shown below:

Persons employed in or experienced persons seeking work in transportation industries, 1940¹

Agency	Number	Percent
Railways and railway express (including railroad repair shops)	1, 207, 528	51.08
Trucking service	480, 727	20.34
Water transportation	213, 180	9.02
Street railways and bus lines	210, 068	8.89
Taxicab service	90, 402	3.82
Warehousing and storage	69, 346	2.93
Services incidental to transportation	31, 326	1.33
Air transportation	24, 618	1.04
Petroleum and gasoline pipe lines	19, 218	.81
Not specified transportation	17, 417	.74
Total	2, 363, 830	100.00

¹ In this table persons on public emergency work are not counted.

The total, 2,363,830, is 4.78 percent of the 49,492,552 persons reported as the corresponding number for all industries. About one-half of the transportation employees were in railway or railway express service, a fifth in trucking service, and 9 percent in water transportation.

Neither of the above tables includes transportation performed by individuals not gainfully employed in transportation, such as persons driving their own cars. The following table of ton-miles and passenger-miles includes all types of transportation except that it is restricted to intercity traffic. The construction of such a table necessarily involves some rough estimates.

Volume of intercity traffic, public and private, by kinds of transportation

Agency	Ton-miles				Passenger-miles			
	1940 ¹	1941	Percent of total		1940 ¹	1941	Percent of total	
			1940	1941			1940	1941
	<i>Millions</i>	<i>Millions</i>			<i>Millions</i>	<i>Millions</i>		
1. Railways, steam and electric, including express and mail	379, 161	481, 766	61.96	63.61	24, 766	30, 317	8.71	9.71
2. Highways	51, 003	57, 123	8.33	7.54	257, 364	278, 874	90.46	89.27
3. Inland waterways, including Great Lakes	118, 057	144, 638	19.29	19.10	1, 317	1, 821	.46	.58
4. Pipe lines	63, 745	73, 846	10.42	9.75				
5. Airways (domestic revenue service), including express and mail	14	18	(?)	(?)	1, 041	1, 370	.37	.44
Total	611, 980	757, 391	100.00	100.00	284, 488	312, 382	100.00	100.00

¹ Some of the 1940 figures as given in the 55th Annual Report have been revised.

² Less than 0.01 percent.

SOURCES:

1. I. C. C. reports; electric railway ton-miles and passenger-miles estimated on basis of revenues.
2. Highway ton-miles for 1940 compiled by Public Roads Administration. Figures for 1941 estimated on the basis of the rate of increase in ton-miles indicated by the Public Roads Administration. Bus passenger-miles estimated from revenues compiled by "Bus Transportation" divided by 1.5 cents per passenger-mile. Passenger-miles of private automobiles estimated by increasing the 1933 estimate of the Federal Coordinator of Transportation in accordance with increased registrations. No allowance has been made for possible change since 1933 in intercity mileage per private passenger vehicle.
3. Office of Chief of Engineers, U. S. Army, for 1940. Estimated by I. C. C. for 1941.
4. Estimated by converting barrel-miles reported to I. C. C. into ton-miles and allowing for nonreporting pipe lines. Includes refined as well as crude oil, with allowance for crude-oil gathering lines.
5. Civil Aeronautics Journal, Civil Aeronautics Administration, U. S. Department of Commerce.

The figures in the preceding table indicate an estimated total of 757,391,000,000 ton-miles of intercity freight traffic for 1941, an increase of 23.76 percent over the estimated total for 1940. All types of carriers shared in the increase, which was 27.06 percent for railways, 12.00 percent for highways, 22.52 percent for waterways, 15.85 percent for pipe lines, and 31.81 percent for airways. Of the total intercity ton-miles for the year 1941, the railways accounted for 63.61 percent, the inland-waterway carriers for 19.10 percent, the pipe lines for 9.75 percent, and the motortrucks for 7.54 percent.

The estimated total of 312,382,000,000 intercity passenger-miles for the year 1941 represents an increase of 9.8 percent over the preceding year. Increases are shown for every type, being 22.41 percent for railways, 8.36 percent for highways, 38.27 percent for inland waterways including the Great Lakes, and 31.60 percent for airways. In 1941, private automobiles, not shown separately in the table, performed 84.61 percent of the estimated total intercity passenger-miles. Railways in 1941 accounted for 9.71 percent, busses for 4.66 percent, inland-waterway carriers for 0.58 percent, and air carriers for 0.44 percent. Excluding travel in private automobiles, the commercial carriers shared in the total intercity revenue traffic as follows: Railways, 63.07 percent; busses, 30.29 percent; inland waterways, 3.79 percent; and airways, 2.85 percent. The revenue passenger-miles performed in scheduled domestic air service were equal to 14.95 percent of railway passenger-miles in parlor and sleeping cars in 1941.

The percentage increases in operating revenues of railways in the individual months of 1942 are strikingly large and show some tendency to stabilization after April:

Railway operating revenues—Relation to corresponding month of 1940 taken as 100

Month	Freight		Passenger	
	1942	1941	1942	1941
January.....	138.7	109.3	154.4	111.3
February.....	146.6	114.9	171.4	114.3
March.....	167.1	129.9	177.7	120.3
April.....	176.4	115.1	220.7	128.0
May.....	171.4	130.3	250.0	126.1
June.....	178.6	134.5	228.9	124.8
July.....	177.3	134.9	243.7	125.6
August.....	173.0	132.0	252.5	121.5

Primarily responsible for the increase in gross revenues is the large increase in freight and passenger traffic. This increase has

been greater in ton-miles and passenger-miles than in tons and passengers because of the lengthened haul and journey:

Increase in traffic—Relation to corresponding month of 1940 taken as 100

Month	Freight tons		Freight ton-miles		Passengers		Passenger-miles	
	1942	1941	1942	1941	1942	1941	1942	1941
January.....	128.4	106.6	144.7	111.0	124.7	104.2	160.2	114.7
February.....	138.3	115.3	150.3	114.8	125.2	104.4	169.4	118.7
March.....	163.4	135.3	171.1	132.1	129.1	110.5	170.3	123.5
April.....	173.2	111.1	182.3	105.6	134.5	108.7	202.6	128.3
May.....	160.2	127.3	179.0	131.0	143.4	108.0	225.0	126.0
June.....	162.9	132.3	178.8	135.1	144.8	107.6	205.8	124.7
July.....	154.5	129.1	182.7	137.5	153.4	107.0	212.4	122.9
August.....	152.6	128.5	175.0	135.8	163.0	108.8	217.5	118.6

In part also the increase in railway revenue results from general changes in rates and fares referred to elsewhere in this report.

The effect of these increases in rates and fares in 1942 is only imperfectly reflected in the revenues per unit of traffic because of changes in the length of haul or journey and in composition of traffic. This fact is shown by the figures for June 1942 compared with June 1941:

Freight revenue

Month and year	Per ton ¹	Per ton-mile	Average haul ¹
June 1942.....	\$2.02	<i>Cents</i> 0.931	<i>Miles</i> 217.2
June 1941.....	1.87	.927	202.2
Percent increase.....	8.0	0.4	7.4

Passenger revenue

Month and year	Per passenger ¹	Per passenger-mile	Average journey ¹
June 1942.....	\$1.50	<i>Cents</i> 1.94	<i>Miles</i> 77.4
June 1941.....	1.10	1.75	63.2
Percent increase.....	36.4	10.9	22.5

¹ Interchange traffic included in divisor.

The revenue per ton-mile in 1942 was only slightly higher, but the per-ton revenue advanced in about the same percentage as the average haul. The per passenger-mile revenue was 10.9 percent higher which, added to the effect of a 22.5 percent increase in average journey, made the revenue per passenger 36.4 percent higher.

The increases in revenues above noted have resulted in improved net earnings. The expenses also increased but not by as large a per-

centage as the revenues. Below is a condensed income account for class I railways for recent periods:

Condensed income account, class I line-haul railways

Item	12 months' period ended June 30, 1942	Calendar year 1941	Calendar year 1940
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
Revenues and other income.....	\$6,382	\$5,524	\$4,466
Cost of materials, depreciation, and other expenses except wages and salaries.....	1,789	1,603	1,362
Taxes, including income and profits taxes.....	787	547	396
Total deductions.....	2,576	2,150	1,758
Remainder available for employees and investors.....	3,806	3,374	2,708
Wages and salaries chargeable to operating expenses.....	2,510	2,198	1,856
Investors' share.....	1,296	1,176	852
Percent—Wages and salaries.....	65.95	65.15	68.54
Percent—Investors' share.....	34.05	34.85	31.46

This statement views the employees and investors as jointly producing an income to be shared by them. The income to be divided, after deducting all taxes, including income and profits taxes, was \$3,806,000,000 for the fiscal year 1942, of which the employees received 65.95 percent and the investors 34.05 percent. These percentages are almost the same as for the calendar year 1941, the higher wages paid for 10 months of the fiscal year having been offset by higher revenues from increased traffic and to some extent from higher rates and fares effective during a part of the year. The 2 years have the last half of 1941 in common. The investors' proportion was larger in 1941 than in 1940. The term investor includes both bondholders and stockholders. Their combined share in the total income was distributed as follows:

Item	Year ended June 30, 1942	Calendar year 1941	Calendar year 1940
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
Rent for leased roads.....	\$160	\$155	\$147
Interest on bonds, etc.....	477	481	486
Miscellaneous deductions.....	41	40	29
Net income for stockholders.....	618	500	190
Total.....	1,296	1,176	852

The interest on bonds given in this table is what is reported as accrued and was not all actually paid to investors, since interest in default is included in the accruals. The net income shown for the stockholders was only in part paid out in dividends, some of it hav-

ing been applied to sinking and other reserve funds or reinvested in the property. As shown by the table, there was a large increase in this net income (after income and profits taxes) in 1941 over 1940 and a further advance in the fiscal year 1942. There was no corresponding increase in dividends, the amount of dividends both from income and surplus being \$159,314,900 in the calendar year 1940, \$185,845,723 in 1941, and \$185,584,281 in the fiscal year 1942.

The net income (after income and profits taxes) for the fiscal year ending in 1942, \$617,604,914, was 7.79 percent of the par value of the capital stock actually outstanding on December 31, 1941. This relates to all class I line-haul carriers, including those undergoing reorganization.

The increases in railway traffic and revenues of class I steam railways as a whole in the year 1942 over those of the years 1940 and 1941 given in the preceding tables do not show the variations in the size of the increases both geographically and among the individual carriers. Some indication of the geographical variations is shown by the following comparisons of revenues and net railway operating income by regions and districts for the first 9 months of 1942 and corresponding periods in 1940 and 1941.

1942 January-September revenues and net railway operating income as percentages of 1940 and 1941, class I railways, by districts and regions

District and region	Freight revenues		Passenger revenues		Railway operating revenues		Net railway operating incomes	
	1942 of 1940	1942 of 1941	1942 of 1940	1942 of 1941	1942 of 1940	1942 of 1941	1942 of 1940	1942 of 1941
Regions:	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
New England.....	163.3	123.2	200.5	171.7	166.9	132.1	297.3	133.7
Great Lakes.....	157.2	125.5	177.9	162.0	156.8	128.0	191.1	17.8
Central Eastern.....	164.2	127.6	205.3	171.7	167.4	132.3	163.4	115.7
Poahontas.....	127.2	116.0	327.8	211.2	133.7	120.5	74.0	76.0
Southern.....	181.4	141.6	292.2	209.3	188.7	147.5	286.9	138.3
Northwestern.....	152.6	124.2	176.5	157.2	152.8	125.8	192.2	107.9
Central Western.....	188.2	145.3	230.9	191.9	189.8	149.3	375.4	175.3
Southwestern.....	191.7	150.6	350.0	246.4	197.7	155.6	467.2	185.3
Districts:								
Eastern.....	161.1	126.4	195.0	168.5	162.8	130.5	182.2	114.1
Southern.....	161.3	133.1	297.3	209.6	169.9	139.1	167.6	115.0
Western.....	177.4	139.8	234.6	193.2	179.6	143.3	315.3	153.3
United States.....	167.2	132.7	222.2	183.2	170.4	136.9	218.9	128.7

The number of class I carriers in receivership or trusteeship on July 31, 1942, was 31, compared with 33 on December 31, 1941, and 39 on December 31, 1938. The improvement in earnings in 1941

enabled these carriers under reorganization to cover fixed charges by a small margin, but the coverage remains much below that of the other railways, and their stock had small earning power even in that year of large traffic.

Income and fixed charges, class I railways, year ended December 31, 1941

Item	Not in receivership or trusteeship	In receivership or trusteeship
Net railway operating income.....	\$818, 241, 411	\$180, 014, 375
Other income.....	\$164, 187, 442	\$12, 753, 379
Income available for fixed charges.....	\$947, 740, 789	\$189, 005, 184
Contingent charges.....	\$8, 244, 982	\$9, 143, 685
Net income (after all income and profits taxes).....	\$476, 788, 934	\$22, 976, 203
Ratio of income to fixed charges.....	2. 05	1. 20
Percent net income of capital stock actually outstanding Dec. 31, 1941.....	7. 75	1. 29

Notwithstanding the increase in wage level in the latter part of 1941, the operating expenses have shown a declining ratio to revenues, particularly for other than maintenance expenses:

Ratio of expenses to revenues, class I railways

Expense item	First 6 months		Calendar year		
	1942	1941	1941	1940	1939
Maintenance of way and structures.....	10. 67	10. 88	11. 28	11. 57	11. 69
Maintenance of equipment.....	17. 74	19. 01	18. 57	19. 06	19. 17
Total maintenance.....	28. 41	29. 89	29. 85	30. 63	30. 86
All other operating expenses.....	37. 34	39. 34	38. 68	41. 27	42. 19
Total.....	65. 75	69. 23	68. 53	71. 90	73. 05

In 1939, approximately 27 cents was left out of each dollar of revenue for taxes and the share of investors; in 1940, about 28 cents; and in 1941, 31½ cents. Tax accruals are now mainly of three kinds: Pay-roll taxes, Federal income and profits taxes, and State taxes. The pay-roll taxes, collected for social security purposes, fluctuate almost directly with employment. The State taxes, being in large part based on property value, although partly on income, show much less fluctuation than the Federal income and profits taxes:

Railway tax accruals, class I operating railways

Kind of tax	1941	1940	1939
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
Pay roll.....	\$138. 1	\$116. 4	\$105. 5
United States income and profits.....	173. 8	59. 9	32. 8
Other United States.....	11. 4	5. 2	4. 1
State taxes other than pay roll.....	222. 3	213. 6	212. 4
Total.....	545. 6	395. 1	354. 8

As indicated above, maintenance expenditures have increased somewhat less than in proportion to revenues. The following measures, not stated in terms of money, show a large increase in repairs and rail renewals in 1941 over 1940, corresponding with the greater traffic. Tie renewals increased relatively less than rail replacement.

Item	1941	1940	1939	1938	1937
Man-hours applied in maintenance.....millions..	1, 378	1, 176	1, 108	995	1, 289
Total car-miles.....millions..	32, 068	27, 270	25, 204	23, 093	26, 773
Man-hours per 100 car-miles.....	4.30	4.31	4.40	4.31	4.82
Rail laid in replacement:					
New.....tons..	1, 197, 593	998, 914	878, 643	599, 752	1, 029, 861
Second hand.....tons..	1, 031, 229	912, 599	840, 663	603, 191	944, 736
Wooden cross ties:					
Untreated.....thousands..	5, 763	6, 326	6, 521	7, 600	9, 639
Treated.....thousands..	41, 461	37, 294	38, 561	33, 763	38, 075

From 1940 to 1941, car-miles increased 17.59 percent; man-hours in maintenance, 17.22 percent; rail renewals, 16.60 percent; and ties laid (mostly treated), 8.26 percent. However, the renewal of rails in 1941 was in sharp contrast with that in 1929, when 1,958,489 tons of new rail were laid in replacement although total car-miles were only slightly above those of 1941. In appraising the significance of such a change, the improvement in quality of steel and in methods of lengthening the life of rails should be considered.

It has been possible for the railways to carry the greatly enlarged volume of freight and passenger traffic since 1940 without a corresponding addition in equipment because of more effective utilization of cars and locomotives and a more active repair program. This is shown by the following operating averages:

Operating averages, class I steam railways

Average	Seven months, January-July		
	1942	1941	1940
Freight net ton-miles per loaded car-mile.....	31.0	27.8	27.4
Freight car-miles per train-mile.....	51.5	50.1	49.1
Passenger miles per car-mile.....	21.0	15.4	13.5
Passenger-train car-miles per train-mile.....	8.24	7.74	7.40
Train-miles per train-hour:			
Freight train.....	16.1	16.7	16.8
Passenger train.....	36.1	36.1	35.8
Percent unserviceable:			
Freight cars.....	3.1	5.3	8.6
Locomotives:			
Yard switching.....	9.3	13.6	16.5
Road freight.....	13.9	21.6	25.6
Road passenger.....	15.0	20.8	22.4

The number of persons employed by class I steam railways has increased with the greater operating activity. The index of employment, adjusted for season and with the average for 1935-39 taken

as 100, was 125.7 for July 1942, compared with 113.5 and 100.4 for July 1941 and July 1940, respectively. The total number in July 1942 was 1,316,511, the largest railway employment in any month since May 1931.

Motor carriers of passengers have experienced a very large increase in net earnings since 1940. For 203 such carriers reporting to us, the net operating revenue (after operating taxes and rents) was \$33,374,646 in 1941, or 76.6 percent greater than in 1940. In the first quarter of 1942, compared with the first quarter of 1941, the corresponding increase was 263 percent.

Motor carriers of property also gained markedly from 1940 to 1941. For 1941, the net operating revenue, after operating taxes and rents, was \$30,632,206, for 1,176 carriers reporting to us, an increase of nearly 40 percent over 1940. But in the first quarter of 1942 the net declined nearly 35 percent from the first quarter of 1941.

The net income of 71 pipe-line companies reporting to us, after interest and taxes, was \$79,467,898 in 1941, and was nearly the same as the net income of 1940 and 1939. Included in the deductions in arriving at the net income are the United States Government taxes, which amounted to \$50,042,248 in 1941, \$31,690,185 in 1940, and \$22,091,927 in 1939. The dividends declared in 1941 amounted to \$83,305,301, compared with \$47,168,043 in 1940 and \$66,551,022 in 1939. More than half of the 1941 dividends were declared from surplus.

Water carriers reporting to us had freight revenues of \$188,497,537 in 1941, an increase of 7.2 percent over 1940. Their passenger revenue was \$20,332,775, or 21.7 percent more than in 1940. These carriers, however, experienced a marked decline in business in 1942 compared with 1941. For the first quarter the percent of decrease in freight revenue was 49.52 percent and for the second quarter 62.14 percent. The largest relative decrease was reported for the Atlantic and Gulf coast and Pacific coast groups. Intercoastal business has ceased.

Electric railways, although in the aggregate of declining importance in mileage, investment, and capitalization, reported an increase in operating income in 1941 compared with the 2 preceding years, and a decline in the deficit shown against net income. For 1941, total revenues amounted to \$51,696,369, operating income, after expenses and taxes, \$4,420,702, and the deficit in net income, after fixed charges, was \$1,944,824. However, some companies declared dividends, which totaled \$1,362,726. These figures exclude those of three companies which do not completely segregate financial data relating to electric-railway operations.

EMERGENCY SERVICE ORDERS

Division 3 has issued numerous service orders under the emergency powers conferred upon the Commission by section 1, paragraphs (10) to (17), inclusive. Some of the more important service orders have been issued by the entire Commission. These orders have been issued in emergency situations to avoid congestion of traffic, particularly at the ports and at shipyards and other war industries, and to prevent shortage of cars, including locomotives and other types of railroad equipment, and to facilitate the free flow of traffic. These emergencies have arisen in part from the dislocation of traffic caused by the conversion of industrial machinery to the production of war materials, construction of new industries at points where no industries previously existed, construction of Army and Navy bases, transportation of troops, discontinuance of water transportation, and the conservation of motor trucks and busses.

Much has been accomplished by voluntary cooperation of the shippers in loading cars more carefully, loading them heavier, and releasing them quickly. Many conferences have been held with representative shipper organizations, in which various proposals have been submitted which may be necessary in the present emergency to conserve car supply. The service orders relating to railroad car service which have been issued were deemed necessary to insure heavier loading and prompt release of cars, and to prevent congestion of traffic and shortage of railroad equipment.

In the issuance of service orders, as well as in conferences with shipper organizations, close cooperation has been maintained at all times with the Office of Defense Transportation, the Association of American Railroads, and the American Short Line Railroad Association. On the shipper side, particular credit for cooperation must be given to the National Association of Shippers Advisory Boards, the National Industrial Traffic League, and their executive committees, and the car efficiency vigilance committees which have been organized in hundreds of communities, both large and small, where they have played and are playing a vital part in the effort to promote a more flexible and usable car supply. Our war effort demands the maximum effort toward economy and efficiency on the part of everyone connected with transportation.

Only those emergency service orders which are general in their application will be briefly described below. Other emergency service orders deal with more or less local situations, such as joint use of terminals, congestion of traffic due to floods, fires, strikes, or other disasters or emergencies, requiring temporary diversion of

traffic and embargoes. Such situations develop quickly, and the Commission is prepared to issue service orders as quickly as it can obtain the facts and determine the emergency.

Service Order No. 68, issued January 30, 1942, suspended the operation of rule 24 of the Consolidated Classification dealing with freight in excess of full carloads. This rule is sometimes referred to as the follow-lot rule. Under this rule, amounts in excess of a full carload were accorded the rates applicable on the entire shipment, using the actual or authorized estimated weight. The car carrying the excess usually moved to destination with only a small portion of its capacity being used.

Service Order No. 68 suspended also the operation of the car-substitution portions of rule 34 of the Consolidated Classification. The operation of such rule was suspended insofar as it permitted railway freight cars to be used for the shipment of carload freight otherwise than subject to the carload minimum weight for each car used. The car-substitution portions of rule 34 allowed the carrier to substitute a larger car for a smaller car ordered and to substitute two cars for a car ordered, and provided for protection of the minimum weight on the car ordered.

Service Order No. 68 suspended also the operation of all provisions in all other tariffs filed with us by railroad carriers which, in like manner as, or in modification or extension of rule 24 and of the car-substitution portions of rule 34, permitted railway freight cars (whether loaded by shipper or carrier) to be used for the shipment of carload freight, including livestock, otherwise than subject to the established carload minimum weight for each car used. An exception was provided as to rule 29 of the Consolidated Classification or to any similar provision in other tariffs relating to minimum weights of carload shipments of articles which by reason of their length require two or more open cars for their transportation.

Under Service Order No. 68, shippers are not required to accept cars of a different size than those ordered, but, if they accept and use such cars, they must either load the minimum weight for the car used or pay charges on the basis of the minimum weight for the car used.

The effect of this order was to materially increase the loading of freight cars. It also brought to light the fact that certain existing carload minimum weights were not properly adjusted. In order to handle protests against the operation of this order and to suggest changes which might alleviate hardships from this order, we appointed an employees' committee consisting of the Directors of the Bureaus of Traffic, Service, and Inquiry and two examiners. This committee is called the Advisory Committee on Car Service Orders.

Certain adjustments in minimum weights have been made by the carriers in cooperation with this committee, including a general change in the minimum weights applicable to open-top cars.

Service Order No. 68 directly affected the loading of forwarder freight. This traffic was loaded at the New York piers and other terminals in New York under a so-called promiscuous loading rule which permitted the loading of cars without regard to the size or capacity of the car and the assessment of charges on the aggregate weight regardless of how many cars were used. Service Order No. 68 put an end to this practice. The carriers proposed on short notice to establish a minimum of 30,000 pounds on forwarder freight and provided that under rule 10 (the mixed-carload rule) commodities taking the all-freight rate could be used as one factor in the determination of the charges applicable on each class of freight in the car. This arrangement did not apply on cars more than 40 feet 6 inches in length. This change was permitted on short notice. Forwarder freight from New York is now loaded to a minimum weight of 30,000 pounds or more, and the result has been to increase the loading of some forwarders 100 percent.

A test check covering the volume of traffic originating at a pier station in New York during the month of April 1942 as compared with the month of January 1942 shows that the number of cars used decreased 71.5 percent, the tonnage decreased 47.7 percent, and the average weight per car increased 83.8 percent. A similar check covering the volume of traffic handled by a forwarder originating at another pier station shows that the number of cars used decreased 45.5 percent, the tonnage decreased 5.7 percent, and the average weight per car increased 73.1 percent. A similar check of the traffic of another forwarder originating at a pier station shows that the number of cars used decreased 53.8 percent, the tonnage decreased 16.9 percent, and the average weight per car increased 79.8 percent.

Shippers of livestock generally protested against Service Order No. 68 insofar as it affected shipments of livestock, pointing out that such order would result in a severe rate increase and in unjust discrimination and undue prejudice. The discrimination and prejudice complained of would have resulted principally from the fact that rates on livestock in single-deck cars are 15 to 25 percent higher than rates in double-deck cars and that some railroads have double-deck cars and others do not. In certain sections of the country, particularly in southern-classification territory, there are practically no double-deck cars available. The aggregate minimum weight on two single-deck cars is greater than the minimum weight on a double-deck car. Under Service Order No. 68, when two single-deck cars were furnished for a double-deck car ordered, the minimum weight, and presumably the

rate, in connection with single-deck cars would have applied. Because it was thought that unjust discrimination and undue prejudice would result against shippers unable to get double-deck cars, the effective date of Service Order No. 68 was postponed, and on March 6, 1942, we vacated Service Order No. 68 insofar as it related to shipments of livestock, and simultaneously issued Service Order No. 71, which relates to tariff provisions and car-service rules covering the shipment of livestock.

Service Order No. 71 suspends entirely the operation of tariff provisions and car-service rules under which carriers furnish follow-lot or trailer cars. It partially suspends the operation of tariff provisions and car-service rules under which carriers furnish two or more single-deck cars for a double-deck car ordered, two or more smaller cars for a larger car ordered, or a larger car for a smaller car ordered. The partial suspension is to the extent that no carrier shall furnish single-deck cars in lieu of double-deck car or cars ordered, two or more smaller cars for a larger car or cars ordered, or a larger car for a smaller car ordered, except where such carrier is unable to furnish the car or cars of the type or size ordered. At the time Service Order No. 71 was issued, existing tariffs, particularly those of the western carriers, provided that carriers reserved the right at their own convenience to substitute cars for the cars ordered by the shipper.

Service Order No. 71 also provided in effect that at any station or terminal served by more than one railroad or by a terminal or switching line all livestock cars shall be pooled. Pursuant to this portion of the order, a pool of livestock cars has been established at the following points: St. Joseph, Kansas City, and St. Louis, Mo., Wichita and Atchison, Kans., Omaha, Nebr., Sioux City, Iowa, Pine Bluff and Texarkana, Ark., Pueblo and Denver, Colo., Fort Worth and Houston, Tex., Oklahoma City, Okla., and Ogden and Salt Lake City, Utah.

Service Order No. 70 limits the number of reconsignments and diversions which may be made on shipments of fresh or green fruits and vegetables in refrigerator cars at the established joint through rates. The limit set by the order is three diversions or reconsignments before arrival at destination plus at such destination two additional changes in consignor or consignee, one additional change in place of unloading, or both if embodied in a single order, provided that for the purposes of the order changes en route in the name of the consignee or in the name of the consignor without change either in the route or destination, and one change in the name of the consignor or consignee at destination without additional movement of the car, are not to be counted as diversions or reconsignments. This order was made after consultation with representative shippers and shipper organizations, and was virtually agreed to by them before it was

issued. Such order has resulted in considerably augmenting the refrigerator-car supply.

Service Order No. 74 suspended the operation of certain tariff provisions which authorized the application of the minimum weight applicable to cars 36 feet 6 inches or less in length to watermelons loaded in cars 40 feet 7 inches or less in length if such cars were equipped with bulkheads so that the available loading space did not exceed 36 feet 6 inches in length. The order forbade the carriers to install such bulkheads or to move a car in which such bulkheads had been installed contrary to this order.

Service Order No. 75 suspended the operation of rule 4 of the Code of Car Service Rules insofar as it applied to cars delivered to vessels controlled or operated by or for the account of the War Shipping Administration. Rule 4 of the Code of Car Service Rules provided as follows: "Cars of railroad ownership must not be delivered to a steamship, ferry or barge line for water transportation, without permission of the owners, filed with the Car Service Division."

Service Order No. 77 suspended the operation of provisions of certain tariffs which provided rules and charges governing diversion and reconsignment of fresh or green fruits and vegetables insofar as said tariffs authorized or permitted shipments of such commodities to be consigned to Potomac Yard, Va., for diversion, reconsignment, or holding for orders. This order has been very effective in relieving congestion at this important gateway.

Service Order No. 80 deals with the movement of bulk grain and sacked grain (including soybeans, flaxseed, grain screenings, and dry edible beans) to certain primary markets. It was issued in cooperation with the United States Department of Agriculture and the Office of Defense Transportation. It designates certain grain permit committees at each of the various primary grain markets and designates an agent of this Commission at each of these markets and authorizes such agent to issue permits for the movement of grain into the market for storage, giving first consideration to grain in the gravest danger of damage or loss and thereafter to issue permits for the movement of grain for storage on the basis of a fair and equitable proration of the storage facilities currently available at the market. On cash grain, our agent is authorized to issue permits on a fair and equitable basis, giving first consideration to grain in the gravest danger of loss or damage and second consideration to supplying the needs of that particular market, and the needs of dealers, processors, or distributors customarily dependent upon that market for their supply of grain. Thereafter he is authorized to issue permits for the movement of cash grain on the basis of a fair and

equitable proration of the facilities available at the market. The total number of permits to be issued is limited to the capacity of the market to handle and release cars without undue delay and detention and so as to avoid congestion of traffic. Permits are authorized to be issued upon application by a shipper, receiver, buyer, or his authorized representative to the grain permit committee. The agent is authorized to issue the permits either upon such application or upon his own initiative, and he may, in the exercise of his discretion, under the terms of the order, upon proper notice, from time to time dispense with the use of permits as to certain kinds and types of grain from one or more areas to the market either on grain for storage or on cash grain, and in such cases the railroads are authorized to supply, accept, and move cars of such grain. The order became effective July 22, 1942, and will expire December 31, 1942, unless further extended.

Service Order No. 85 deals with operating rules, regulations, practices, and State laws limiting the length of railroad freight and passenger trains. It was found that certain rules, regulations, practices, and laws are now in effect and being enforced in certain States limiting the length of railroad freight trains to not more than one-half mile and limiting the number of cars in a railroad freight train to 70 cars, and limiting the number of cars in a railroad passenger train to 14 or 16, and that compliance by railroads subject to the Interstate Commerce Act with such rules, regulations, practices, and laws, during the present emergency, may result in congestion of tracks and terminals, wasteful use of locomotives, and interference with the free flow of traffic necessary in the present emergency; and that railroad freight trains exceeding one-half mile in length, or exceeding 70 cars in length, and railroad passenger trains exceeding 14 or 16 cars in length may be operated in accordance with safety standards now applicable, during the present emergency, in and through such States, and that such operation will facilitate the free flow of traffic necessary during the present emergency. It was therefore ordered that from and after September 15, 1942, carriers by railroad subject to the Interstate Commerce Act shall operate their trains, when necessary for the prompt movement of freight and the clearing or avoidance of congestion by either freight or passenger trains, without regard to any rules, regulations, practices, or State laws now in effect and being enforced in the various States limiting the length of freight trains to not more than one-half mile and limiting the number of cars in a railroad freight train to 70 cars, or limiting the number of cars in a railroad passenger train to 14 or 16.

This order became effective September 15, 1942, and is to remain

in effect during the war in which the United States is now engaged, unless sooner terminated by subsequent order. It is expressly provided that this order, being based on conditions of war emergency, shall not constitute a precedent for peacetime operations.

Service Order No. 87 relates to demurrage rules on cars loaded with coal held for transshipment at Atlantic ports, New York, N. Y., to Norfolk, Va. It reduces the free time from 7 to 6 days, reduces the average free time on cars delivered to storage plants for subsequent delivery to vessels from 4 to 3 days, and reduces the settlement period for the average account from 3 months to 2 months.

Service Order No. 89 prohibits the operation of the practice by railroads of allowing or permitting the use of refrigerator cars for car peddling (which, for the purpose of this order, is defined as the vending of freight directly from the car to consumer by retail sale) of wine grapes and juice grapes.

Emergency Order No. M-1 was issued pursuant to section 204 (e) recently added to part II by the Second War Powers Act approved March 27, 1942, which gives us authority with respect to motor carriers, to be exercised under similar circumstances and procedure, equivalent to that with respect to other carriers under section 1 (15) of part I of the act. The purpose of the order was to remove uncertainty with respect to rates and divisions applicable to shipments by motor carrier which were diverted to other motor carriers under the terms of O. D. T. Order No. 3. Our order prescribes rules for determining the applicable rates on such diverted traffic, and directs common carriers by motor vehicle to publish immediately appropriate tariff provisions stating how the applicable rates are to be determined. With respect to divisions, it provides that they shall be agreed upon between the carriers or fixed by us. The order sets forth a basis of divisions which we informally believe would be just and reasonable.

The duty of preventing car shortage and congestion of traffic and of maintaining a fluid supply of cars and motor vehicles in time of war is a grave responsibility, which requires daily contact with developments on the transportation front.

ABANDONED MILEAGE

During the year ended October 31, 1942, 227 applications were filed for permission to abandon 3,534.927 miles of railroad lines or the operation thereof. We granted 184 applications, of which 58 were contested and 126 were uncontested cases, involving 1,887.462 miles of branch line of class I carriers, together with 430.175 miles of so-called short lines, of which 303.837 miles constituted the entire lines

of the applicants and 126.338 miles were portions of such lines. Information is not available as to the total number of miles which were actually abandoned under the permissions granted. In proceedings in which certificates were issued, covering 1,794,786 miles of road, the estimate of average annual losses from continued operation or of future annual savings resulting from abandonment amounted to \$1,080,014. In proceedings covering the remaining 505.915 miles, estimates of losses or savings are not given. The figures for annual losses are based largely on the results of operation in recent years. Mileage and possible losses or savings in trackage-rights abandonments are not included.

It has been shown in certain cases that the necessary cost of rehabilitation or of bringing up deferred maintenance of tracks which were permitted to be abandoned, aggregating about 685.357 miles, would require an expenditure estimated at \$3,029,139. Since this amount would necessarily be expended in order to continue operation, abandonment would result in a saving which to that extent can, with considerable accuracy, be estimated in advance.

Corresponding data are given in our reports beginning with the report for 1934.

Owing to the present national demand for metals and rails which can be salvaged from abandoned railroads, carriers have been making surveys of their branch-line operations for the purpose of determining whether they are warranted in requesting permission to abandon any of them.

The reasons generally advanced to warrant abandonment were insufficient traffic, resulting from various causes, including failure of expected traffic to develop, exhaustion of sources of traffic from forests and mines, and losses of traffic to other forms of transportation. In a few cases operation of lines had been discontinued before applications for permission to abandon were presented.

Under our cooperative plan with the War Department and the War Production Board, we notify them of applications for permission to abandon as these are filed and advise them of the status thereof. The War Department, in each case, notifies us whether it considers the line involved of military value. The War Production Board forwards to us, as information, notices of requisitions of lines of railroad, the materials in which it considers suitable for salvage purposes.

To date the War Production Board has advised us of requisitions by the Metals Reserve Company of the entire lines of 2 short-line railroads, and 15 branch lines of trunk-line systems. One of the requisitions was served before a hearing was held in our proceeding,

5 before proposed reports were served, 7 before final reports were issued permitting the abandonments, and 1 in a case in which we had denied the application, without prejudice to the applicant's right to renew its application at the expiration of the year 1942. On October 14, 1942, an application was filed for permission to abandon portions of a line of railroad which the applicant shows were requisitioned September 26, 1942.

PREVENTION OF ACCIDENTS

Safety in transportation is essential to the maximum war effort. The loss of man-hours resulting from railway and highway accidents, and the destruction of or damage to cars and contents, locomotives, motor vehicles, and other equipment, restrict our effectiveness in war. The permanent or temporary loss of trained employees, the interruption of service, and the loss of use of equipment are especially serious when transport agencies are strained to meet the abnormal demands of wartime traffic. These accidents also result in casualties to some of the thousands of troops being transported. The effect of these losses as compared with sinking of ships at sea differs only with respect to the number of men and volume of essential equipment or materials lost. Under present emergency conditions, the prevention of accidents assumes an importance that is in addition to the economic and humanitarian considerations given them under peacetime conditions.

War conditions require greatly increased effort and additional facilities to prevent accidents. The number of railroad employees has grown rapidly and is still increasing. The methods and personnel provided by the railroads for instructing and supervising the many inexperienced employees must likewise be improved and expanded. Throughout the country, the numbers and lengths of trains have increased, and in locations where extensive war industries have been developed the available railroad transportation facilities have been overtaxed to a point where safety of operation has been seriously impaired. Restrictions placed upon the use of materials required for railroad facilities and equipment have resulted in serious delays in revising existing installations, in making necessary new installations, and in securing needed replacements and additions. These restrictions, accompanied by the intensive use of locomotives and cars and the curtailment of construction of new locomotives and cars, have required extra efforts by the inspection and repair forces of the railroads, and have placed increased responsibility upon our inspectors to see that there is no relaxation in the standards and precautions necessary for safety of operation and for the protection of employees and the public.

At the beginning of the upturn in railroad traffic, the condition of locomotives in use throughout the country was as good as ever recorded and a high degree of safety of locomotive operation prevailed. During the past several months, however, due principally to the efforts of the railroads to short-cut inspections and hurry repairs so as to expedite road movement, less attention has been given by them to conditions which may, in individual cases, appear to be of only minor consequence but which, in the aggregate, materially affect both safety and efficiency of operation. During the fiscal year ended June 30, 1942, as compared with the preceding year, there was an increase of 45 percent in the number of locomotive accidents, and an increase of 126 percent in the number of persons killed and 24 percent in the number of persons injured in such accidents. The practice, too often indulged in, of applying temporary repairs, in the hope that a locomotive will successfully complete a trip and that more adequate repairs can be applied thereafter when more convenient, has been productive of many locomotive failures. In addition to increasing the peril to employees and others and increasing the ultimate cost of repairs, these failures also result in delays to the trains involved and frequently interfere with the expeditious movement of other trains. Avoidance of failures to locomotives is essential to safe and efficient railroad performance, and under wartime conditions it is more urgent than ever that all possible efforts be put forth by all concerned to prevent such failures.

Definite responsibility rests upon this Commission for the enforcement of provisions of law which require that locomotives, cars, and signal installations shall conform with prescribed standards and be maintained in safe condition for service; also to require the installation of additional appliances if found necessary in the public interest. As shown below, there has been a material increase in railroad accidents and in casualties resulting therefrom during the present calendar year. To counteract this trend, we have directed attention in numerous cases to unsafe conditions and in a considerable number of instances have called upon carriers to show cause why they should not be required to effect improvements in existing facilities or to install new ones for the protection of property, employees, and travelers.

The order which we issued in 1939 prescribing rules, standards, and instructions pertaining to automatic block-signal systems, interlocking, and certain other specified systems and appliances has assumed increased importance recently, owing to the added load of carriers and importance of the traffic. This order prescribed mini-

imum safety requirements for both existing and new systems. Its purpose has been accomplished with respect to new installations, but a considerable number of inadequate signal systems and interlockings which were in service at the time the order was issued have not as yet been brought up to requirements. These necessary revisions should be completed as rapidly as possible.

Accident investigations have disclosed places where manual block-signal systems in effect were insufficient to provide proper protection for train operation, and other places where, notwithstanding relatively heavy traffic and frequent accidents, no block-signal system is in use at all. Under the law, we should require the correction of conditions of this nature, and certain proceedings to this end are now in progress. However, the processes which are required to bring about correction of these conditions by our orders are time consuming, and when these conditions are disclosed the carriers should proceed at once to make the necessary correction as part of their contribution to the war effort, without awaiting formal action by us.

Railroads are reporting to us more than 1,000 train accidents every month, a reportable train accident being one causing damage to railway property in excess of \$150. Compared with conditions a year ago, such accidents have increased faster than the locomotive-miles. For the first 6 months of 1942, the number of train accidents reported was 6,232, an increase of 50.97 percent, while the locomotive-miles, including motor train miles, increased but 15.46 percent and the car-miles but 22.14 percent. Defects or failure of equipment accounted for 1,724 of the train accidents, an increase of 45.73 percent over 1941, while defects in or improper maintenance of way and structures were responsible for 703, an increase of 30.67 percent. "Negligence of Employees" was stated in the carriers' reports as the cause of 2,758 train accidents, an increase of 64.36 percent over the corresponding 1941 total. In addition, train accidents not classified under the above heads numbered 1,047, an increase of 43.62 percent over 1941. The situation disclosed by these reports emphasizes the need for increased safety effort at this time and the importance of allocating to the railways the materials necessary for adequate maintenance of plant and equipment.

Train accidents as above defined do not always involve casualties to persons, but there are many train-service or nontrain accidents in which injuries to persons occur without much, if any, damage to railway property. Taking all classes of railway accidents together, the number of fatalities in the first 6 months of 1942 was 2,431, an increase of 8.92 percent over the first 6 months of 1941, and the number injured was 20,913, or 26.29 percent more than in the comparable 1941 period.

The following table analyzes the casualties of the first 6 months of 1942 and 1941 by classes of persons:

Class of person	Six months, January to June, inclusive					
	Number persons killed			Number persons injured		
	1942	1941	Percent of increase	1942	1941	Percent of increase
Trespassers.....	896	948	¹ 5.49	729	858	¹ 15.03
Employees on duty.....	422	309	36.57	15,093	10,657	41.63
Passengers on trains.....	35	8	337.50	1,388	1,437	¹ 3.41
Travelers not on trains.....	8	2	300.00	370	437	¹ 15.33
Others, nontrespassers, being chiefly persons at grade crossings.....	1,070	965	10.88	3,333	3,170	5.14
All classes.....	2,431	2,232	8.92	20,913	16,559	26.29

¹ Decrease.

What has been stated concerning the difficulties of the railroads in meeting increased transportation demands is equally true of motor carriers. The facilities of motor carriers of both passenger and property have been severely strained to meet greatly expanded transportation needs. Shortages of drivers and mechanics and reduced availability of new vehicles, parts, and tires call for increased safety activity as a means of conserving existing facilities which are vital to our war efforts. Special attention has been given to the transportation of explosives by motor vehicles, including conferences for the purpose of obtaining cooperation of State and local police departments and fire marshals in safeguarding the movement of the increased volume of explosives and other dangerous articles brought about by the war. Full cooperation of all these agencies is sought to surround the movement of these commodities with all precautions possible.

REDUCTION OF FUNDED DEBT AND FIXED CHARGES

In our Forty-seventh Annual Report (1933), page 26, we called attention to the fact that it had theretofore been the general policy of railway companies to provide for their financial requirements in large part through the issue of long-term bonds which at maturity were refunded, thus treating debt evidenced by bonds as practically perpetual with no provision for its liquidation. We pointed out the danger inherent in this policy and announced that we were giving consideration to methods of bringing about a reversal of the trend in railway financing. We stated that we believed the desired results could be obtained, in part at least, through the provision of sinking funds to be set up by the railway companies out of net income for the purpose of retiring part of their debt before maturity and that, if such funds were not voluntarily established by the railway companies,

their establishment might be required as a condition to authorization of future bond issues under the provisions of section 20a of the Interstate Commerce Act.

Since that announcement, it has been our policy to require the establishment of sinking funds to retire before maturity all, or a part, of the bonds authorized to be issued. This has been done in all cases except where the railroad was able to establish to our satisfaction that such a fund was unnecessary, as in case of nominal issues, or could not properly be required. From January 1, 1934, to September 30, 1942, we authorized the nominal issue of \$206,966,000, and the actual issue of \$3,218,993,410.38, of bonds. Sinking funds were required, or voluntarily provided, for \$129,326,438.96 of the nominal issues and for \$1,508,434,439 of the actual issues.

A number of railroads in refunding outstanding debt have been authorized to issue bonds maturing in series over a number of years with a view to retiring the new bonds as they mature instead of retiring the debt through the operation of a sinking fund. During the period January 1, 1934, to September 30, 1942, the amount authorized to be refunded in this manner totaled \$49,974,000. These series mature annually in from 5 to 25 installments. Apart from the reduction in principal which will thus gradually result, these refunding operations effected a reduction of \$1,428,106 in annual interest charges. During the same period, carriers were authorized to issue securities to refund \$1,061,945,500 of their debt through the issue of bonds bearing a lower rate of interest and having the benefit of sinking-fund provisions. A part of this debt is expected to be outstanding until maturity, but much of it is to be retired at earlier dates. In addition, these refunding operations effected a reduction in annual interest charges of \$11,815,174.

Drastic reduction of the debt of railroads reorganized, or in the process of reorganization, under section 77 of the Bankruptcy Act has been effected or is proposed. We have approved plans of reorganization for 28 railroads which have required, or will require, the reduction of their funded debt from \$3,242,848,000 to \$1,715,620,000, much of the latter amount being in the form of income bonds involving no fixed charges against income. Of these plans, 19, involving a reduction of funded debt from \$1,889,461,000 to \$1,050,995,000, have been approved by the district courts having jurisdiction in the proceedings. Thirteen of the 19 plans have also been confirmed by the district courts, and appeals have delayed confirmation of 3 of the remainder. Should all the plans approved by us be approved and confirmed by the courts, 28 of the 40 railroads which have filed petitions under section 77 in proceedings not discontinued before reorganization will, through proceedings under that section, have their total

debt (including \$753,590,000 accrued unpaid interest) reduced from \$3,996,438,000 to \$1,715,620,000. Under the plans approved, obligatory fixed charges would be reduced from \$142,082,000 to \$40,857,000. Of this reduction, \$9,606,000 has been effected, leaving \$91,619,000 yet to be realized. In 4 recent equity reorganization proceedings there has been a reduction of \$104,927,948 or 40.7 percent in funded debt and of \$8,097,632 or 68 percent in obligatory fixed charges. In practically all these cases, provision is made for the establishment, out of income, of a capital fund to provide for capital expenditures. The purpose of this fund is to avoid the necessity of financing such expenditures by the issue of securities. Provision is also made for establishment, out of earnings, of sinking funds to retire before maturity a part of the bonds issued in reorganization. Practically all of the new issues will have call provisions.

Many railroads are alive to the desirability of reducing their indebtedness and have undertaken to reduce the burden of fixed charges, especially since 1933. Most railroads in a position to do so have already taken advantage of call provisions to refund outstanding issues at lower rates of interest. A very large portion of outstanding railroad bonds which were issued prior to the effective date of section 20a of the Interstate Commerce Act are noncallable. This has prevented much desirable refunding that, except for this, could have been accomplished on favorable terms. Practically all bonds which we have authorized to be issued in recent years have call provisions. Since, as a general rule, bonds can be redeemed only at a premium, retiring bonds by calling them is rarely resorted to except as a means of reducing interest charges. The reduction in annual interest charges must be sufficient not only to absorb the premium paid in calling the bonds and the expenses in connection with refunding them but also to effect sufficient savings to make the operation worth while.

During the period January 1, 1932, to December 31, 1941, the funded debt of class I railroads was reduced from \$10,850,944,438 to \$10,565,084,210, a decrease of \$285,860,228. Of this reduction, at least \$111,115,727 was effected through reorganization. Interest accrued by class I railroads on funded debt declined from \$500,036,354 in 1932 to \$438,297,464 in 1939, but, due to changes in the method of accounting in 1940, which required inclusion of interest accrued on funded debt matured and unpaid in "Interest on Funded Debt," increased to \$469,495,539 in 1941. As indicated above, the elimination of approximately \$91,619,000 is involved in reorganization cases not yet disposed of. It will be noted that the decline in interest charges has been relatively greater than the decline in the total debt. This may be attributed to favorable refunding operations. It may

also be noted incidentally that, for the mortgage debt issued in 1941 by class I railroads, not in receivership or involved in proceedings under section 77 of the Bankruptcy Act, the nominal rate of interest averaged 3.90 as compared with 4.64 percent for that issued in 1932. For equipment obligations, the decline was from 4.91 in 1932 to 1.92 percent in 1941.

Few railroads are in position to reduce their indebtedness through the sale of capital stock. Most railroads must look entirely to their earnings for necessary funds. Those aware of the desirability of reducing their funded debt will doubtless utilize the opportunity which is afforded by their present favorable earnings to do everything which reasonably can be done to reduce their indebtedness. Where they have no bonds with call provisions, reduction of their debt usually can be accomplished only by buying their bonds on the open market.

At present, a large proportion of the outstanding railroad bonds can be bought at large discounts. This affords a most favorable opportunity to eliminate debt and to cut fixed charges. The extent to which railroads are now buying their own bonds is not currently reported, but the indications are that substantial operations of this character are, and have lately been, in progress. Undoubtedly more attention is being given to reduction of current obligations than to those of long term. Recent experiences have impressed on management the difficulties attendant on the maturities of substantial principal obligations. Necessarily, the extent to which current cash resources can safely be used for retirement of long-term debt is affected by nearby maturities and other cash obligations.

In our last annual report, we again discussed the importance of debt reduction. We suggested that the present favorable earnings be used as largely as is practicable for that purpose. We are convinced that both the public interest and the interests of carrier shareholders will in the long run be served by that policy.

MOTOR-CARRIER INTEGRATION

In our last annual report we referred to the numerous unifications of motor-carrier properties which have been authorized, and we present data elsewhere which add a year to the record. We stated, however, that only the so-called *Transport case* (*Associated Transport, Inc.—Control and Consolidation*, 38 M. C. C. 137) presented proposals to integrate motor-carrier operations on a large scale. We did not grant these proposals, but a subsequent application which involved certain of the same carriers received our approval. This case is discussed hereinafter. Also, there is mention elsewhere of a pending

application which involves pooling on the part of 366 specialized motor carriers.

It is recognized, of course, that individual carriers through a succession of applications have tended to build up integrated systems. The data next presented are therefore of interest as showing what has transpired in this respect in the period of approximately 7 years since this phase of motor-carrier regulation became effective. This interest is heightened by the unusual conditions which now exist, as these conditions are contributing in various respects, noted elsewhere, to increased efforts to unify properties.

Of a total of 1,785 unification applications filed and 6 formal investigations instituted under old section 213 and present section 5 of the act in the 7 years ended September 30, 1942, 1,645 applications have been disposed of and 5 investigations terminated. Of the applications disposed of, 1,295, or 79 percent, were approved; 255, or 15 percent, were dismissed; and 95, or 6 percent, were denied. Many of the applications included in the first category received only qualified approval in that authority was granted either upon terms differing from those proposed or contingent upon the fulfillment of prescribed conditions.

An analysis of the applications filed and investigations instituted in the 7-year period discloses that 1,429, or 80 percent, involved trucking operations; 344, or 19 percent, bus operations; and 1 percent, a combination of the 2. The proportion of applications involving bus operations has declined in almost every year since 1937. The greater integration of bus operations prior to Federal regulation doubtless explains this trend. Applications to purchase predominated, being 1,315 in number and 73 percent of the total, and were followed in order by those to acquire stock control (158), to merge (116), to lease (107), to consolidate (32), to contract to operate (6), and to pool (4). There were 47 applications which had more than a single purpose. Applications to pool became possible only with the enactment of the Transportation Act of 1940. Applications to lease increased greatly in the year ending September 30, 1942, and were almost a third of such applications filed to date.

Water carriers have sought authority for acquisitions in 7 cases, and rail carriers and motor carriers affiliated with rail carriers have sought such authority in 187 cases, or 10.5 percent of the total. The rail applications represented 15 percent, however, of those which involved bus operations. The 187 applications were filed on behalf of 39 different rail carriers or rail systems. The Southern Pacific heads the list with 28 applications and is followed by the Atchison, Topeka & Santa Fe Railway with 25, the Chicago, Burlington & Quincy Railroad with 21, the St. Louis-San Francisco Railway with 16, and the Chicago,

Rock Island & Pacific Railway with 15. Following our decision in *Pennsylvania Truck Lines, Inc.—Control—Barker Motor Freight*, 1 M. C. C. 101 and 5 M. C. C. 9 and 49, which announced general limitations as to the type of motor operations which railroads would be permitted to acquire, the number of cases involving railroads decreased, but an increase is noted in the applications filed by such carriers in the year ended September 30, 1942.

Of all applications filed, 549, or 31 percent, were filed by 72 carriers. Some 47 carriers filed 5 or more applications which involved motor carriers of property. These applications totaled 383 and averaged 8 per carrier. Eleven filed from 10 to 15 applications, 26 from 6 to 9, and 10, 5 each. Each of 18 carriers filed 5 or more applications which involved motor carriers of passengers. These applications totaled 143 and again averaged 8 per carrier. Five filed from 11 to 14 applications, 8 from 6 to 9, and 5, 5 each. Members of the Greyhound system filed a total of 59 applications, representing 17 percent of all applications which involved bus operations. Some of these applications, however, involved merely intrasystem transactions.

The total number of carriers involved in the applications filed in the 7-year period was 4,077, of which 1,688 were carriers acquiring control of other operations, called surviving carriers, and 2,389 were carriers of which control was being acquired or whose operations were being transferred, called liquidating or controlled carriers. The average number of carriers involved in each application was 2.3. In arriving at the stated totals, a given carrier is counted each time it is involved in a separate application.

The unifications show no substantial shift in control of operations from one geographical region to another, as the percentage of all surviving carriers in a particular region does not differ greatly from the percentage of liquidating and controlled carriers in such region.

Data as to the operating revenues in the preceding calendar year are available for 933 liquidating or controlled carriers. Of these carriers, 456 had revenues of less than \$50,000 per year, 157 between \$50,000 and \$100,000, 131 between \$100,000 and \$200,000, 55 between \$200,000 and \$300,000, 25 between \$300,000 and \$400,000, 22 between \$400,000 and \$500,000, and 87 over \$500,000. Those for which information was not available (614) would probably fall in the lower brackets. Some 842 of the transactions involved only a part of the seller's operations; in such instances, generally speaking, no accurate segregation is available as to revenues derived from the portion involved. Of the 1,477 surviving carriers for which revenue information was available, the greater number (408) had revenues more than \$100,000 and less than \$250,000, followed in order by carriers having revenues more than \$250,000 and less than \$500,000 (346), those having

revenues more than \$1,000,000 (278), those under \$100,000 (208), those between \$500,000 and \$750,000 (161), and those between \$750,000 and \$1,000,000 (76). Compared with those involved in trucking operations, a proportionately greater number of the carriers involved in bus operations fall within the higher brackets in the case of both surviving and liquidating carriers.

Reference should also be made to the numerous other cases in which we have passed on the transfer of operating rights. These cases, which do not fall under section 5, are those which involve acquisitions in which the total number of vehicles involved does not exceed 20 and those in which, regardless of the number of vehicles, the vendee was not previously a motor carrier. Some of the transfers have involved carriers of substantial size. The number of transfers authorized in the current year is indicated elsewhere. We have not undertaken a detailed analysis of these transfers for the purpose of this report. A relatively small sample chosen from authorizations granted in 1940, 1941, and 1942 indicates that in only 24 percent of the cases is the transferee an interstate motor carrier. In a substantial number of cases, however, the same transferee is involved in more than 1 transfer. In 39 percent of the cases, the transfer was made to a person not a motor carrier; in 14 percent, to a corporation whose stockholders were former operators under the same docket or from a corporation to its stockholders; in 12 percent, to a new partnership of which transferor was a member or from a partnership to a member of the partnership; and in 11 percent, to a member of a family, including transfers made on the decease of the operator. These transfers, in their entirety, involve unifications to a relatively minor extent.

The largest unification of motor carriers of property which has taken place since the passage of the Motor Carrier Act, 1935, was approved by us in *Associated Transport, Inc.—Control and Consolidation*, 38 M. C. C. 137. In that case we authorized consolidation into Associated Transport, Inc., of New York, of 8 motor-vehicle common carriers of property operating principally along the Atlantic seaboard. The carriers involved, taken collectively, operated over a network of regular routes covering more than 24,000 miles of highway and serving the principal points in Massachusetts, Rhode Island, Connecticut, New York, eastern Pennsylvania, New Jersey, Delaware, Maryland, the District of Columbia, Virginia, and North Carolina, and extending from points in this area to Cleveland, Ohio, Pittsburgh, Pa., Nashville, Tenn., Great Falls, S. C., and to New Orleans, La., and Pensacola, Fla., via Atlanta, Ga., and Montgomery, Ala. They employed approximately 5,800 persons and operated 3,300 units of equipment. Their operating revenues and net income in 1940 were \$18,705,264 and \$570,189, respectively. Among other things, we

found that the consolidation would permit substantial operating economies, improved transportation service, and more efficient and economical use of equipment. The consolidation would be financed entirely through exchange of capital stock, but issuance of preferred stock in the amount of \$1,500,000 for sale to the public for additional working capital was also authorized.

One unusual circumstance in connection with this decision should be mentioned. The Antitrust Division of the Department of Justice participated in the proceedings before us in opposition to the proposed consolidation, contending with others that it would unduly restrain competition in the motor-carrier industry. This contention and the evidence in support of it were carefully considered and discussed at length in our report, but our findings were adverse to the contention.

Later a protesting motor carrier brought suit in the United States District Court for the Southern District of New York to set aside our order approving the consolidation. Under the statute governing the procedure in such cases, the United States is made a party defendant. Adhering to the position which it took before us as a litigant, the Department of Justice has filed an answer for the defendant in which it "says that the United States admits the allegations thereof and confesses error in the order of the Interstate Commerce Commission" and prays that the order be set aside. We have availed ourselves of the statutory right to intervene in this suit for the purpose of defending the order.

INCREASED RAILWAY RATES, FARES, AND CHARGES, 1942

In petitions filed in December 1941, the carriers by railroad subject to our jurisdiction asked us to make certain orders necessary to enable them to increase their rates, fares, and charges in interstate or foreign commerce by 10 percent, except by specific amounts, the rates on coal, coke, and iron ore. No increase was sought in some accessorial charges. Similar petitions were filed on behalf of certain common carriers by water. The rail carriers' request was made shortly after mediation agreements which resulted in increases in the wages of employees, estimated to amount to approximately \$311,711,000 per year, became effective. Increased operating costs due to advances in prices of many materials and supplies and to added precautionary measures necessary to safeguard their properties and operations during the present war, estimated at \$50,000,000 per year, and the wage increase, were urged as justification for the general increase sought.

Hearing was held in St. Louis, Mo., from January 5 to 9, 1942, and we heard oral argument there from January 12 to 14. The case

was submitted to us on brief and argument January 14. On March 2, 1942, our decision was announced, 248 I. C. C. 545.

By order of January 21, 1942, we authorized an increase of 10 percent in passenger fares and charges, which became effective February 10. Our report of March 2 stated the justification and findings on which that order was based.

In the report we found that as a whole the proposal of a general increase of 10 percent in freight rates had not been justified by the applicants, but that, with exceptions presently to be noted, then existing rates and charges increased by 6 percent, and fares and charges increased by 10 percent, would be just and reasonable for the future. Upon the basic or raw products of agriculture, animals and products, and products of mines, except iron ore and sinter anthracite, bituminous coal, coke, and lignite, the increase was limited to 3 percent. No increase in the rates on iron ore and sinter was permitted, and the increases authorized upon anthracite, bituminous coal, and coke were specific amounts per ton, averaging somewhat less than 3 percent. The increased rates authorized generally became effective March 18, 1942, and have remained in effect since except for routine revision of individual rates.

The increases allowed having grown out of the emergency caused by the present war, our authorization provided that they shall expire 6 months after the termination of the war, unless sooner modified or terminated by further action herein or in other proceedings.

EMERGENCY PRICE CONTROL ACT OF 1942

Pursuant to the provisions of the Emergency Price Control Act of 1942, the Office of Price Administration issued its General Maximum Price Regulation which, effective August 1, 1942, established the maximum charges to be observed for transportation services performed by carriers other than common carriers. Under the provisions of the Interstate Commerce Act, the rates of contract carriers by motor vehicle and by water for transportation in interstate or foreign commerce are subject to regulation by us and we are authorized to prescribe the minimum rates to be observed. Such carriers are required to file with us schedules containing their minimum rates and charges actually maintained and charged for such transportation.

Due to this overlapping responsibility and authority, a number of questions of policy and interpretation of the laws arose. In order that the provisions of both acts would be administered without conflict, conferences were held between representatives of the Office of Price Administration and the Commission. Arrangements were made for close cooperation and expeditious action by both in dispos-

ing of those questions and others with respect to the proper rates to be authorized in specific instances.

Because of our prior experience in the regulation of such carriers and the accumulation in our records of data pertaining to the carriers affected, the rates published by them, and the relation of such rates to rates of common carriers, et cetera, we were able to and did assist the Office of Price Administration in making its General Maximum Price Regulation effective. We also assisted that office in the determination by it of many applications filed with it by the carriers seeking amendment to its General Maximum Price Regulation.

CLASS RATE AND CLASSIFICATION INVESTIGATIONS

Subsequent to the hearing in these proceedings at St. Louis, Mo., described in our last report, members of our staff amplified most of the studies respecting which evidence had been received at that hearing, and made certain additional ones. The results thereof, except the portion awaiting a ruling on objection as to admissibility, were received in evidence at a further hearing before division 2 at Indianapolis, Ind., which began September 22, 1942, the documents being entitled as follows:

1. A Statistical Summary of Selected Data on the Economic Development of the United States by Freight Rate Territories.
2. Interterritorial Interest of Class I Steam Railways.
3. Relative Territorial Costs 1939 and 1941, Analysis of Switching Costs and other Data.
4. Territorial Rail Costs Based on a Separation of the Out-of-Pocket and Constant Expenses 1939.
5. Territorial Unit Costs for Railroad Freight Service 1939.
6. Territorial Movement of Carload Freight on May 27, 1942.

These staff members were presented as witnesses at the Indianapolis hearing. The studies they had prepared were explained by them, and they were cross-examined with respect thereto by respondents and others appearing for State commissions and shipper interests. Thereafter evidence was received on behalf of respondents, some of which we had required them to furnish, and on behalf of State commissions and shippers in southern, southwestern, and western trunk-line territories.

In order to permit parties in opposition to those who had previously introduced evidence to examine and analyze the large volume of such evidence, and to afford them an adequate opportunity properly to prepare evidence in opposition thereto, the Indianapolis hearing was adjourned on October 1, to be resumed at Columbus, Ohio, on November 16. It is expected that the record will be completed at the Columbus hearing.

After issuance of the notice of the Indianapolis hearing a number of parties, including respondent class I railroads of the United States, American Trucking Associations, Inc., Public Utilities Commission of Wisconsin, National Industrial Traffic League, Mississippi Valley Association, and Tennessee Manufacturers Association, petitioned us to postpone further proceedings for the duration of the present war, to which replies in opposition were made by other parties. The petitions were denied.

REVISION OF RULES OF PRACTICE

On September 15, 1942, a new body of general rules of practice before the Commission became effective by our order. Enactment of parts II, III, and IV of the Interstate Commerce Act had successively made the existing revision less satisfactory as a general code. From time to time, various detailed "special instructions" supplementing the rules of procedure were issued, such as the special rules governing joint-board procedure, and special instructions governing proceedings under the motor-carrier provisions of the act. Need for a comprehensive revision of the rules became clearly evident, and an intensive study was undertaken by our Committee on Rules and Reports, assisted by members of our staff, with the active and valued cooperation of a small committee appointed by the Association of Interstate Commerce Commission Practitioners. The revision made effective on September 15 was the result. During the progress of the study, after several drafts had been considered by the committees mentioned, we put out a tentative draft for criticism by the public. In response we received many carefully considered suggestions by groups of practitioners and counsel for interests affected, and by public representatives. These, with the criticisms of our own staff, and the oral argument before the Committee on Rules and Reports, were given close attention in perfecting the draft of revision.

The revision prescribes a single set of general rules, covering all four parts of the Interstate Commerce Act, as well as related statutes administered by the Commission. In so doing, an effort has been made to comply with the statutory direction in section 17 (3) of the act, that the Commission's rules should "conform, as nearly as may be, to those in use in the courts of the United States." Therefore the revision reflects to a marked degree the spirit, and in many instances the language, of the code of rules for civil procedure adopted by the Supreme Court of the United States for the governance of the lower Federal courts. Necessarily for a considerable time the general rules will be supplemented by special instructions in particular cases, or as to particular types of cases, and for cause may be varied in any proceeding by direction of the Commission.

The new rules are grouped under the following headings: General Information; Practitioners; Special Rules Respecting Boards; Pleading Specifications Generally; Commencement of Proceedings; Shortened and Modified Procedure; Notice of Hearing, Subpenas, Depositions; Hearings; Briefs, Reports, Oral Argument; Order Compliance, Damage Statements; and Rehearing, Reargument, or Reconsideration. It will be noted that the arrangement of the rules follows the general pattern of tracing the course of a proceeding from initiation to decision.

A complete change was made in the system of numbering. The Roman-Arabic-alphabetical enumeration previously employed was discarded, and the new rules were given Arabic numbers. There are no subdivisions in about two-thirds of the rules. The remainder have lettered subdivisions averaging less than four subdivisions per rule. In designating the subdivisions, the style of the Federal Register was followed.

By definition, "proceedings" consist of complaints, applications, and investigations. The first class, complaints, is self-explanatory. The second class covers proceedings which involve a prayer for the granting of any right, privilege, or authority under the act (such as convenience and necessity matters, fourth-section applications, et cetera). Investigations are defined as matters instituted on the Commission's own motion. The former rules did not classify the types of proceedings.

As is stated elsewhere in this report, hereafter a fee of \$10 will be imposed upon admission to the Commission's bar. All persons appearing must conform to the standards of conduct required by the code of ethics of the Association of Interstate Commerce Commission Practitioners. The adoption by the Commission of this code of ethics seemed to make unnecessary an amendment to the present rule, suggested by the American Bar Association, or, as an alternative, by the Association of Interstate Commerce Commission Practitioners, with reference to unauthorized practice of the law by practitioners who are laymen.

"Officer" is the new generic term, used to describe an examiner, employee board, joint board, or Commissioner when functioning in an examining capacity.

For the first time rules are prescribed for "employee boards." Such provisions are grouped with those for joint boards, and largely follow the preexisting joint-board rules, repetitious matter being omitted.

The mechanical and typographical specifications as to pleadings were standardized, and, in general, made more liberal, particularly during the continuance of the war emergency. Provision is included for the physical rejection of defective pleadings.

It is provided, following comparable court rules, that signature of a practitioner shall, with certain exceptions, constitute sufficient verification of pleadings but pleadings not thus signed must be verified as formerly required.

The following provision (rule 19) is new to our practice:

Recitals of material and relevant facts in a pleading filed prior to oral hearing in any proceeding, unless specifically denied in a counterpleading filed under these rules, shall constitute evidence and be a part of the record without special admission or incorporation therein, but if request is seasonably made, a competent witness must be made available for cross-examination on the evidence so included in the record.

Formal and informal complaints must, in the future, disclose whether the complaint contains a claim on any shipment which has been the subject of a previous complaint. Disclosure of the same information is required under the terms of the revised form of reparation statement, which also calls for a statement of the relation of the party paying the charges in question to the shipping transaction. Observance of this rule should avoid the embarrassment of duplicate reparation awards, formerly possible in such a large volume of litigation.

Affirmative provision is made for motions to make more definite and certain either a complaint or an answer. The original and two copies of a protest shall be filed with the Commission, and it is required a copy shall be served upon the applicant. These requirements are more strict than obtained under the preexisting special motor-carrier rules.

In addition to present requirements, the new rule makes provision for a statement of what the protestant against a tariff or schedule offers by way of substitution. It is further provided that "the protest simultaneously be served upon the publishing carrier, freight forwarder, or agent, and upon other persons known by protestant to be interested." These requirements are new.

It is provided: "If within a time period stated in that order [instituting an investigation and suspension proceeding] a respondent fails to comply with any requirement specified therein, respondent shall be deemed in default and to have waived any further hearing." This is new.

The present shortened procedure, which is based on consent of the parties, is retained. Provision also is made for a form of modified procedure, not dependent upon consent, which seeks to confine any oral hearing to material matters upon which there is disagreement. A similar "modified procedure" was outlined in our 1924 Annual Report, at page 7 thereof.

Under the new rules, the Commission may confine the service of notice of a change of time or place assigned for hearing, or of any

adjourned, further, or supplemental hearing to those who have indicated to the Commission a desire to be notified, at their own expense if telegraphic advice becomes necessary, of any such change. This puts into rule form a practice which has been in effect for some time in the administration of certain provisions of the act.

Subpenas will issue only upon signature by the secretary or a member of the Commission. The making of a return of service is simplified by alternatively providing that the written acceptance of service of a subpoena by the person named therein is sufficient without other evidence of return.

New and detailed provision is made as to the taking of depositions, and their use. These cover the making of written interrogatories, and new provisions respecting the offering of depositions in evidence, similar to those found in the rules of civil procedure approved in 1938.

Provisions modeled upon the Federal civil rules are included for the holding of prehearing conferences. In order to induce candor in the discussion of the issues and procedure at such conferences, they are to be privileged as to facts disclosed therein.

A petition for leave to intervene not tendered at the hearing in an application proceeding under part II hereafter shall be served by petitioner. Under the former rules the Commission undertook to serve all petitions in intervention. Participation in Commission proceedings without the filing of a petition in intervention is permitted in certain cases, such as investigations, upon a statement of matters showing interest.

Provision is made that evidence admissible under rules of general Federal law shall also be admissible before the Commission; and a liberal application of the rules of evidence is required. "Canned" testimony expressly is made permissible, under conditions safeguarding against abuse, such as the prior distribution of copies to the hearing officer and to counsel. Tariffs and schedules which are the subject matter of an investigation and suspension proceeding will be officially noticed. Abstracts may be required to be made when documents introduced in evidence are numerous. A manner of handling excluded exhibits is provided, and the approved manner of stating objections is outlined. All these are new provisions.

Following the determination made in June 1942, no free copies of any transcript will be furnished by the Commission.

Reply briefs will be permitted under certain circumstances not now permitted.

Our prior rules have not adequately provided for the filing of exceptions where there has been no prior hearing and a hearing is sought. That is now covered by a special provision.

The only limitation on the filing of petitions for reconsideration contained in the former rules relates to certain limited classes of

cases. The new rule provides: "Except for good cause shown, and upon leave granted, petitions under this rule must be filed within 30 days after the date of service of a decision or order granting an application in whole or in part, and within 60 days after the date of service of any other character of decision or order." A successive petition on the same ground which has been considered and denied by the entire Commission or by an appellate division is not to be entertained.

Changes were proposed in the approved forms for complaint, answer, et cetera, minor in character, and designed to make such forms conform to the related new proposed rules.

The rules, it is emphasized, "are to be liberally construed to secure just, speedy, and inexpensive determination of the issues presented."

The next step requisite is to bring the various special instructions, which supplement the general rules, into complete harmony. It is hoped that in this process they may be simplified and reduced both in number and content.

ORGANIZATION CHANGES

Our organization schedule and assignment of work and functions was revised during the year for the purpose of including the new powers and duties which resulted from the enactment of part IV of the Interstate Commerce Act, pertaining to the regulation of freight forwarders in interstate commerce. These new powers and duties were assigned to the various divisions of the Commission having similar functions under the other parts of the act.

COOPERATION OF FEDERAL AND STATE COMMISSIONS

Since our last report, we have cooperated with State commissions in five additional proceedings involving interstate-intrastate rate relations. Of these, three were complaints filed with us in respect of rates in effect, and two were investigation and suspension proceedings arising out of orders issued by us and by State commissions suspending the effective dates of rates proposed by carriers. In these cases we had the cooperation of four different State commissions. We have also received cooperation from State commissions in eight proceedings involving abandonment of railroad lines. In addition, joint boards of State commissioners provided for in section 205 of part II of the act functioned in numerous cases referred to in the chapter on "Bureau of Motor Carriers."

Upon our invitation, cooperating committees of State commissioners participated in the hearings, oral argument, and subsequent disposition of Ex Parte 148, Increased Railway Rates, Fares, and Charges, 1942, No. 28765, Express L. C. L. Special Emergency Tariffs, 1942, and Ex Parte 150, Increased Pullman Fares and

Charges, 1942, and further cooperation is planned in the following investigations instituted on our own motion: No. 28300, Class Rates Investigation, 1939; No. 28310, Consolidated Freight Classification; No. MC-C-150, Motor Freight Classification; No. MC-C-200, Motor Carrier Class Rates Investigation; and No. 28863, Rates on Wool and Mohair, elsewhere referred to in this report.

STANDARD TIME ZONE INVESTIGATION

Since our last annual report there has been no change in the time-zone boundaries. In our twenty-fifth supplemental report, decided October 31, 1941, we restored an operating exception of the Apalachicola Northern Railroad Company, which had been in effect since our original order of 1918 but had been inadvertently omitted in making the changes covered by our twenty-fourth supplemental report. The correction was made before the order took effect.

By an act "to promote the national security and defense by establishing daylight saving time," approved January 20, 1942, 56 Stat. 9, effective 20 days later, February 9, 1942, the standard time of each zone established pursuant to the Standard Time Act was advanced 1 hour. The act also provides that it shall cease to be in effect 6 months after the termination of the war or at such earlier date as is designated by Congress and that "at 2 o'clock antemeridian of the last Sunday in the calendar month following the calendar month during which this act ceases to be in effect the standard time of each zone shall be returned" to the basis provided in the Standard Time Act.

For several weeks after the shift to war time, we received numerous informal complaints and inquiries concerning the disparities between the new war time and local sun time. Many of them were obviously preparatory steps looking toward action by this Commission adjusting the boundaries between the several zones so as to transfer the western sections of one zone into the next zone to the west. Such complaints originated chiefly in Michigan, Ohio, and Georgia in the eastern zone, North Dakota, Kansas, and Texas in the central zone, and Idaho, Oregon, and Arizona in the mountain zone. Perhaps the most pressing complaint arose in Idaho and Oregon; but as to that situation and also as to the boundary in Texas and Oklahoma, administrative action is foreclosed as the present lines in those States have been prescribed as the result of direct action of Congress. (41 Stat. 1446; 42 Stat. 1434). The Idaho situation resulted in the introduction of H. R. 6497, and is now before Congress. In Michigan, the State legislature passed a statute which was directed toward the retarding of the clocks of the State to their former standard, but the Governor vetoed it.

The gist of most of these complaints was not primarily the propriety of the zone boundary, but a desire to neutralize the advance in time by a transfer to the next zone to the west. The issue is somewhat similar to that which arose after the repeal of the original daylight-saving provision of the Standard Time Act. In denying the petition of western Texas interests for the transfer of the Panhandle and plains sections of Texas and Oklahoma to the central zone, we held that it is not "within our discretion to adjust the zone boundaries with the avowed purpose of providing a community with a fast or slow time."

It is believed that the recent daylight-saving legislation evinces an intent of Congress to provide a uniform advance of time throughout the present zones as they existed on February 9, 1942. In the absence of some specific direction of Congress covering the matter, we do not consider it within our province to modify the present normal time zone boundaries for the avowed purpose of neutralizing the advance in time standards provided by the recent enactment. Accordingly we have discouraged complaints which have sought to nullify the act. The agitation against advanced time fell off during the summer period of long days, but complaints are being renewed as the short days of winter approach. Certain communities and sections have shifted back to the former standards of time.

This local abandonment of war time is just the reverse of the annual shift of certain local and State standards to daylight-saving time. The daylight-saving movement is confined largely to the eastern extremities of the time zones, where the standard time of the zone in some instances is over 30 minutes slower than sun time, and is more pronounced in the more northern latitudes, where the variation in the length of the days is greater than it is farther south. The result is the practical transfer during the summer months of the eastern extremities of the zones to the faster standard of the next zone to the east. In the present situation, the tendency is for communities of the western extremities of the several zones, except the Pacific zone, to seek a transfer to the slower standard for the next zone to the west. This attitude is readily understood when it is realized that the normal standards of time for points in the western ends of the eastern and mountain zones are over 45 minutes faster than sun time, and in the western tip of Texas the difference between sun time and central standard time is over an hour. Since these standards have been advanced to war time the extreme disparities now range from $1\frac{3}{4}$ hours to more than 2 hours. The strength of this tendency to a local time differing from the Federal standard is largely due to the fact that the observance of the standards set up by the Standard Time Act is not compulsory, except on the designated classes and to

the limited extent specified in the law, and that local observance is entirely voluntary. This feature has been discussed in several of our previous reports.

STOCKYARD COMPANIES

In our last annual report we referred to our decision in *Ex Parte* No. 127, *Status of Public Stockyard Companies*, 245 I. C. C. 241, which was an investigation, instituted on our own motion, concerning the status of certain public stockyard and other companies as common carriers by railroad subject to the Interstate Commerce Act with respect to the transportation services performed at specified public stockyards in connection with the unloading and loading of carload shipments of livestock transported by railroad in interstate commerce to and from such public stockyards.

Subsequent to our report, certain stockyard companies petitioned for further hearing, alleging that they had divested themselves of their common-carrier status. Further hearings were held, and we made reports on further hearing on June 8, 1942, and September 8, 1942, in which we determined the common-carrier status of these stockyard companies, and of companies which had been organized to perform the unloading and loading services previously performed by the stockyard companies. The principles established in our original report, dated April 7, 1941, were followed in our reports on further hearing.

The status of all companies included in our order of investigation has been determined, and the investigation has been completed.

PROTECTIVE SERVICE AND CAR OWNING COMPANIES

In our report to the Congress for the year 1941, we reported, under the above title, that we had at the time of submitting our report instituted no proceeding under section 1 (14) (a) with respect to the use of locomotives, cars, and other vehicles not owned by the carriers using them. The involvement of the country in war greatly intensified the then existing abnormal conditions affecting the use of cars and locomotives. An investigation under such conditions would not produce information that would be a suitable guide in more normal times. Furthermore, such an investigation would occupy the time of a substantial number of carrier employees who might not well be spared for the purpose under present conditions. We should have information as to the compensation to be paid and other terms of contracts, agreements, or arrangements for the use of locomotives, cars, and other vehicles, as contemplated by this section, particularly as to refrigerator and tank cars, and will undertake its procurement as early as practicable.

Our action under section 1 (14) (b) up to the date of submission of our report for the year 1941 was described in that report. We set forth there the general principles which we had found should govern contracts for furnishing protective service, and related the circumstances which led us, in a report dated October 1, 1941, 246 I. C. C. 737, to approve for temporary use 80 existing contracts which had been amended to expire as of June 30, 1942. In accordance with the arrangement under which the then existing contracts were approved, the parties concerned submitted revised contracts to become effective generally as of July 1, 1942, 4 becoming effective on earlier dates, and 1 becoming effective with the beginning of the 1942-43 heater season. These contracts were carefully considered, further revision having been directed in some instances. A few were found not to be within the scope of the proceeding, 5 were found not satisfactory, and 77 were approved. Eighteen of the approved contracts by their terms expire as of June 30, 1943. The others are effective for various periods. The contracts that are operative beyond June 30, 1943, were approved for application until that date and for application thereafter during their respective terms until our further order. We shall be in a position to reconsider any of these contracts after June 30, 1943, if the circumstances seem to so require.

SIZES AND WEIGHT INVESTIGATION

A report on the question of need for Federal regulation of the sizes and weight of motor vehicles, made pursuant to the provisions of section 226 of the Interstate Commerce Act, was transmitted to Congress in August 1941, together with the staff report on which it was based. The two reports were printed as House Document No. 354 (77th Cong., 1st sess.). A brief summary of our findings and recommendations appeared in our last annual report.

Identical bills intended to provide the comparatively limited degree of Federal intervention which we recommended were introduced in the Senate and House (S. 2015 and H. R. 5949). Hearings were held, in December 1941 and January 1942, by a subcommittee of the Committee on Interstate Commerce of the Senate. Our Chairman explained the proposed legislation and urged its enactment. At the request of the subcommittee, he subsequently submitted an appraisal of the testimony offered. This appraisal appears in the printed record of the hearings.

Testimony in support of the proposed legislation was offered by representatives of for-hire motor carriers and certain groups of their employees and of employees of private carriers, by certain shippers or their representatives, and by a number of Federal Departments or agencies, though in several instances amendments, some of a substantial character, were offered. A little testimony in favor of

Federal legislation was offered by State agencies, but in certain instances only under specified conditions. On the other hand, testimony in opposition to the proposed legislation was offered by representatives of State public-utility and highway commissions and motor-vehicle administrators, by the railroads and railroad labor organizations, and certain other interests. Adverse representations also were specifically made in a few instances by Governors or State legislatures and by subdivisions of the States.

The bill was drawn prior to our declaration of war. The conditions which had prompted our recommendations thereupon became accentuated. Title I, section 101, of the Second War Powers Act, approved March 27, 1942, which granted us certain emergency powers over motor carriers to facilitate the prosecution of the war, expressly provided that action taken under these powers shall not be "in contravention of State laws and regulations with respect to sizes and weights of motor vehicles."

To afford relief during the war emergency and pursuant to the terms of an agreement reached on May 20, 1942, by their selected representatives, the States have adopted certain specified minimum standards of sizes and weight, to which lower limitations were raised. This action, we understand, has been beneficial, though it was of course recognized at the time that the "floor" so set up would not provide the full measure of relief believed desirable by the motor carriers.

No report on S. 2015 has been made by the Senate subcommittee. Other Federal legislation has been proposed. It is understood that the Committee on Interstate Commerce decided on June 4, 1942, to hold action looking to Federal legislation in abeyance until the effects of the action taken by the States could be determined.

We are keeping generally informed of developments and will make such recommendations to Congress as may prove to be necessary.

RAILROAD CREDIT CORPORATION

The liquidation of the Railroad Credit Corporation, referred to in our last report, has proceeded during the year. Of the original emergency revenue, \$63,544,162.52, or 86.5 percent, has been returned to carriers participating in the plan. The balance remaining in the fund October 31, 1942, was \$14,004,963.50.

ADMISSIONS TO PRACTICE

During the year ended October 15, 1942, 792 applicants were admitted to practice. This is the lowest number of admissions in any 1 year since 1935. The rate of admissions has declined steadily since the peak of 1,378 attained in 1938.

Of the 792 persons admitted during the year, 754, or 95.2 percent, were attorneys at law, and 38, 4.8 percent, were not attorneys and were admitted upon examination as to qualifications. Since the establishment of the register of practitioners, September 1, 1929, the number of admissions to practice has totaled 14,578, of whom 10,345, or 71 percent, were members of the bar and 4,233, or 29 percent, were nonlawyers.

During the year one practitioner was suspended for 9 months, and another was suspended with leave to apply for readmission at the expiration of 3 months. A practitioner disbarred in 1936 was heard on his motion to vacate the order of disbarment, but the motion was denied.

Section 17 (12) of the act as amended September 18, 1940, authorizes us to impose a reasonable fee for admission to practice. Accordingly rule 11 of our new Revised Rules of Practice requires that applications for admission filed after September 15, 1942, shall be accompanied by a fee of \$10, to be paid into the public treasury. The fee is returned if applicant is not admitted to practice.

RAILWAY LABOR ACT

In our annual reports for 1935 and for 1936, we discussed briefly that part of the Railway Labor Act exempting, under certain conditions, electric railways. In our 1937 Annual Report, we referred to a pending proceeding as to the Municipal Belt Line Railway of Tacoma, Wash. During the current year, the proceeding referred to was determined (Electric Railway Docket No. 14, 251 I. C. C. 263) and we reached the conclusion that the Municipal Belt Line Railway of Tacoma is more than a street, interurban, or suburban electric railway, that it has been continuously, since prior to August 29, 1935, operating as a part of the general steam-railroad system of transportation, and that it does not fall within the terms of the proviso of section 1 (a) of the Railroad Retirement Act of 1937.

Section 1 of the Railway Labor Act defines the term "carrier" as including among others any carrier by railroad subject to the Interstate Commerce Act. The definition is followed by a proviso which reads:

Provided, however, That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Mediation Board or upon complaint of any party interested to determine, after hearing, whether any line operated by electric power falls within the terms of this proviso.

The Railway Labor Act also authorizes us, after notice of hearing, to amend and interpret our orders defining work of employees or subordinate officials of common carriers by railroad. Accordingly, we decided proceedings brought before us with respect to the work of employees of a contractor which unloads ore at dock for a railroad. Regulations Concerning the Class of Employees and Subordinate Officials to be included within the term "Employee" under the Railway Labor Act, (*Ore Dock Foremen and Laborers—Railway Labor Act*, 246 I. C. C. 703).

In that report we pointed out that the fifth paragraph of section 1 of the act sets forth three factors which must exist coincidentally before a person is an "employee" under the act: (1) He must be in the service of a carrier; (2) he must be subject to the carrier's continuing authority to supervise and direct the manner of rendition of his service; and (3) he must perform work defined as that of an employee or subordinate official in our orders. We concluded that only in connection with the third factor have we been given any authority and that there our jurisdiction is limited.

It had been previously held in this proceeding that the laborers and foremen in question were not "employees" within the meaning of the act. We further found that the work performed by these persons was that of employees and subordinate officials, and our orders defining work of employees and subordinate officials were amended accordingly.

In Ex Parte No. 72 (Sub-No. 1), Regulations Concerning the Class of Employees and Subordinate Officials to be Included within the Term "Employees" under the Railway Labor Act (*Atchison, T. & S. F. Ry. Co. Employees—Ry. Labor Act*, 246 I. C. C. 24), we amended our order of February 5, 1924, in that case, so as to designate news agents on trains of the Atchison, Topeka and Santa Fe Railway Company as employees of that carrier and not subordinate officials, under section 1 (5) of the Railway Labor Act. We found that the work of news agents on trains of that carrier was performed by persons in its employ; in performing their work those news agents were subject to the continuing authority of that carrier to supervise and direct the manner of rendition of their services; and work of those news agents was work of employees of that carrier and not that of subordinate officials. In another report, handed down October 30, 1942, in Ex Parte No. 72 (Sub-No. 1), General Yardmaster, Port Terminal Railroad Association of Houston, Tex., division 3 interpreted our orders defining the work of employees and subordinate officials to include the general yardmaster of this carrier.

A proceeding before us under the Railway Labor Act may arise from a request of the Mediation Board or upon complaint of any party interested. Our determination of the question of status is made after hearing, usually followed by briefs and oral argument prior to our decision.

The Railroad Retirement Act authorizes and directs us upon request of the Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of a similar proviso. It is therein further provided:

That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

In *Utah Copper Co. v. Railroad Retirement Board*, 129 Fed. (2d) 358, the Circuit Court of Appeals for the Tenth Circuit held that the employees of a mining company were subject to the jurisdiction of the Railroad Retirement Board.

The Carriers Taxing Act contains a similar proviso to that contained in the Railroad Retirement Act and authorizes and directs us upon request of the Commissioner of Internal Revenue or upon complaint of any interested party to determine after hearing whether any line operated by electric power falls within the terms of the proviso. There is a similar proviso in the Railroad Unemployment Insurance Act.

As pointed out in our last annual report, the important question we have for decision in these cases is the status of the particular carrier, and our record must develop the facts relating to the question whether the line involved so operates as to be a part of the general steam-railroad system of transportation. As there stated, it often becomes a question of importance to determine the status of a line having subsidiaries.

INVESTIGATIONS

Reports have been published in the following investigations instituted on our own motion:

Ex Parte No. 127, *Status of Public Stockyard Companies*, 251 I. C. C. 677; 253 I. C. C. 215.

Ex Parte No. 137, *Contracts for Protective Services*, 253 I. C. C. 21.

Ex Parte No. 104, *Practices of Carriers Affecting Operating Revenues or Expenses, Part II, Terminal Services.* (*Inland Empire Paper Co. Terminal Allowance*, 246 I. C. C. 127; *J. Neils Lbr. Co. Terminal Allowance*, 248 I. C. C. 283.)

Ex Parte No. 144, *Status of Wharfingers*, 251 I. C. C. 613.

No. 27365, *Freight Forwarding Investigation* (embraced in 246 I. C. C. 57, and also in 246 I. C. C. 715).

No. 28216, *Pick-up of Livestock in Illinois, Iowa, and Wisconsin*, 248 I. C. C. 385.

No. 28530, *Storage, Wool and Mohair in Mountain-Pacific Territory*, 251 I. C. C. 71.

Ex Parte No. 150, *Increased Pullman Fares and Charges, 1942*, 251 I. C. C. 172.

No. 28571, *Fort Smith & V. B. Ry. Co. Switching Allowances*, 248 I. C. C. 70.

No. 28590, *Columbus & G. Ry. Co. Cottonseed Allowances*, 248 I. C. C. 441.

No. 28622, *Intercoastal Rate Structure*, 248 I. C. C. 325; 251 I. C. C. 61.

No. 28686, *Lumber from Washington and Oregon to California*, 248 I. C. C. 355.

No. 28692, *Soap from Jersey City to Norfolk*, 253 I. C. C. 231.

No. 28730, *Cotton Clothing from Tenn. and Miss. to St. Louis, Mo.*, 251 I. C. C. 593.

No. 28732, *Alcoholic Liquors from the East to Southern Points*, 253 I. C. C. 135.

The following investigations were discontinued:

No. MC-C-210, *Reduced Ratings in Exceptions, Southern Motor Carriers*.

No. 28288, *Trucks on Flat Cars Between Chicago and Council Bluffs*.

No. 28496, *Proportional Rates of Common Carriers and Minimum Charges of Contract Carriers*.

No. 28550, *Reduced Ratings in Exceptions, Southern Classification*.

No. 28641, *Sugar from the New Orleans District to Northern River Points*.

Other investigations are pending, some of the more important of which are the following:

Ex Parte No. 122, *Cost Finding in Transportation Service*.

Ex Parte No. 128, *Investigation of South Buffalo Railway Company*.

Ex Parte No. 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto*.

No. 20769, *Charges for Protective Service to Perishable Freight*.

No. 26570, *Reduced Pipe Line Rates and Gathering Charges*.

No. 26712, *Rail and Barge Joint Rates*.

No. 28162, *Nicholson Universal Steamship Company Ownership (Interest of the New York Central Railroad Company in Nicholson Universal Steamship Company)*.

No. 28190, *New Automobiles in Interstate Commerce*.

No. 28300, *Class Rate Investigation, 1939*.

No. MC-C-150, *Motor Freight Classification*.

No. MC-C-200, *Motor Carrier Class Rates Investigation*.

No. 28310, *Consolidated Freight Classification*.

No. 28323, *All-Freight Rates to Points in Southern Territory*.

No. 28400, *Delivery of Livestock Shipments at Cleveland, Ohio*.

No. 28420, *Storage Practices of Railroads at North Atlantic Ports*.

No. 28515, *Allowances for Privately Owned Tank Cars*.

No. 28600, *Oleomargarine from Chicago and Indianapolis to Kansas City*.

No. 28745, *Storage in Transit of Imported Rubber*.

No. 28776, *Pipe-Line Rates from Port St. Joe to Georgia*.

No. 28792, *Interchange of Freight at Boston Piers*.

No. 28814, *Storage in Transit of Imported Chiclé*.

No. 28825, *Bituminous Coal Rates from Ohio River Points to Youngstown, Ohio*.

- No. 28826, Newsprint Paper from Oswego, N. Y., to Brooklyn, N. Y.
- No. 28842, Dayton Union Railway Company Tariff for Red Cap Service.
- No. 28863, Wool and Mohair Rates.
- No. 28894, Consolidation of Shipments by Freight Forwarders.
- No. 28896, Forwarder Rates Conditioned upon Aggregates of Tonnage.
- No. 28897, Proportional Rates of Freight Forwarders.

INTRASTATE RATE CASES

Reports have been made and issued in the following proceedings instituted by us under section 13 of the act:

- No. 27900, In the Matter of Class Rates within the State of North Carolina, 248 I. C. C. 479.
- No. 28827, *Rhode Island Commutation Fares*, 253 I. C. C. 383.

The following investigations under section 13 of the act are pending:

- No. 28791, In the Matter of Rates on Road Aggregates, Limestone, and Rubble Stone within the State of Georgia.
- No. 28815, Commutation Fares in New York State.
- No. 28846, Increases in Texas Rates, Fares, and Charges.
- No. 28848, Increases in Utah Freight Rates and Charges.
- No. 28849, Increases in Idaho Freight Rates and Charges.
- No. 28855, Increases in Montana Freight Rates and Charges.
- No. 28881, Bituminous Coal Rates within Illinois.

WORK OF COMMITTEE ON RULES AND REPORTS

The organization schedule of the Commission adopted in 1939 creates a standing Committee on Rules and Reports, consisting of three Commissioners. This Committee is charged with the duty of studying the procedure of the Commission, and drafting for Commission consideration rules of procedure and amendments, both general and special in character. Elsewhere herein is discussed the comprehensive revision of the Commission's general rules of procedure which became effective September 15, 1942. The Committee had charge of the research and a study which preceded adoption of the revision. For the sake of uniformity, procedural questions arising under the rules are considered and initially passed upon by the Committee.

As a desirable step following the revision of the general procedure rules, the Committee is giving its attention to the special rules and instructions, and forms, prescribed for application to particular types of matters. The aim will be to harmonize them with the general rules, and to simplify them as much as is possible.

All the Commission's rules of procedure (except those specially adopted in particular cases) are published in the Federal Register, in codified form, and are codified in the Code of Federal Regulations.

The reports of decisions and other periodical reports of the Commission are edited and published under the direction of the Committee

on Rules and Reports. During the past year a considerable saving in the volume of the permanent series of reports was accomplished by the device of printing abstracts of routine cases of minor importance as appendices, instead of setting out the decisions in full as issued previously in temporary form, and by rearrangement and condensation of the index digests and auxiliary tables in the respective bound volumes of reports.

CHAPTER XV OF THE BANKRUPTCY ACT

An act approved October 16, 1942, revived chapter XV of the Bankruptcy Act as amended which was added to that act by an act approved July 28, 1939. The provisions of chapter XV as originally enacted are summarized in our annual report for 1939, pages 65 to 67, inclusive, and reference to proceedings under the chapter is made there and in our annual report for 1940, page 69. Jurisdiction conferred upon the court by the provisions of this chapter expired July 31, 1940, except with respect to proceedings initiated by petitions filed with the court on or before that date.

As revived, the benefits of chapter XV extend not only to any carrier as defined in section 20a of the Interstate Commerce Act, excluding any corporation in equity receivership or in proceedings for reorganization under section 77 of the Bankruptcy Act petitioning for a plan of adjustment, and to any subsidiary or lessor corporation of the petitioner, but also to any corporation which is liable or obligated, contingently or otherwise, on securities issued by, or on which obligation and liability has been assumed by a petitioning carrier corporation. Any corporation, so liable or obligated upon the securities of a carrier shall, with respect to such securities and any securities issued in lieu thereof and for the purposes of the chapter, be deemed a carrier within the intent and meaning of section 20a and, if such corporation is a holding company, controlling two or more carriers, it shall, to the extent provided by us in our order, be subject to such of the provisions of the Interstate Commerce Act as, under the provisions of paragraph (3) of section 5 thereof, are applicable to a person, not a carrier, authorized by our order entered under paragraph (2) of that section to acquire control of any carrier or two or more carriers.

Other amendments of the chapter as originally enacted will permit modification of a plan by us or with our approval before entry of our order under section 20a authorizing issuance or modification of securities as proposed by a plan of adjustment; will authorize any one of the three judges constituting the special court who may be designated by the court to perform certain functions in proceedings under the chapter, subject to review by the court; and will

provide for allowances by the court of actual and reasonable expenses to interveners or other interested persons under the circumstances designated in the chapter. The tax provisions of the chapter were also modified in certain respects. Jurisdiction conferred upon the court by the chapter is not to be exercised after November 1, 1945, except in respect of any proceeding initiated by petition filed on or before November 1, 1945.

BUREAU OF ACCOUNTS

A program of general investigations of the accounts and records of carriers subject to parts I and III of the Interstate Commerce Act, considered to be the most efficient means of enforcing our accounting regulations, continued to constitute the major activity of the Bureau. During the year 308 such investigations were completed and 68 were in progress at the close of the period. Those completed covered 262 steam railroads, 20 electric railways, 15 pipe lines, and 11 carriers by water. In addition, the Bureau completed 158 special investigations for other Bureaus of the Commission, 3 of which were for the Bureau of Finance in connection with reopened deficit claims under section 204 of the Transportation Act, 1920, as amended, and 152 were made at the request of the Bureau of Water Carriers and Freight Forwarders to obtain information for use in determining the status of persons and companies filing applications for certificates of public convenience and necessity and for permits, respectively, as common and contract carriers by water subject to part III of the act. Four special investigations were concluded for the Commission, and one special investigation requested by the Office of Defense Transportation, for the purpose of separating the corporate and Federal control accounts of the Toledo, Peoria & Western Railroad Company under Executive Order No. 9108, dated March 21, 1942, was in progress.

The Bureau also made 29 special investigations of the accounts and records of freight forwarders and persons furnishing protective service against heat or cold, to obtain information for use in formulating systems of accounts for such forwarders and persons.

In our last annual report, we stated that in view of the sharp increase in earnings of steam railroads the time seemed opportune to establish mandatory regulations requiring this class of carriers to account currently for depreciation of fixed property, which action although recognized as desirable had been deferred for a number of years because of low railroad earnings and the fact that such a change in accounting would entail a large initial expense. After full consideration of this complex matter and of the views submitted by representatives of the carriers, an order to become effective January 1, 1943, has been entered which will make depreciation accounting compulsory

for practically all classes of road property that are subject to depreciation except those covered by the investment accounts for ties, rails, other track material, ballast, and track laying and surfacing. The need for depreciation accounting is not so urgent with respect to the classes of property covered by these accounts as it is in the case of other depreciable property, because replacements are spread more uniformly from year to year, and the exception was made in recognition of that fact and of the existing shortage of help available to perform the detail work that such accounting would impose on the railroads.

For the duration of the present emergency, the railroads will be permitted to use tentative depreciation rates determined by our Bureau of Valuation in accounting for depreciation of fixed property if they consider those rates satisfactory. Such railroads as may consider the tentative rates unsatisfactory will be required to submit the detailed information needed for prescribing rates.

The difficulties heretofore experienced in carrying out the requirements of the act with respect to depreciation accounting for carriers by water have in large measure been overcome. Accordingly, a revised uniform system of accounts for such carriers, which requires accounting for depreciation of all classes of their property, was made effective January 1, 1942. The work of prescribing depreciation rates for observance by the individual carriers is now under way.

The status of a considerable number of applicants for operating authority as carriers by water under part III of the act has not yet been determined, but on basis of information thus far available it is estimated that approximately 200 such carriers will be found to be subject to our jurisdiction over accounting. Probably about one-third of these will prove to be exempt from the requirements of the uniform system of accounts, under our rule whereby those requirements are imposed only on carriers having average annual operating revenues exceeding \$100,000. In addition, 30 carriers found to be entitled to operating authority have been granted temporary exemption from the requirements of the uniform system of accounts because of disruption of their traffic and schedules resulting from the present war conditions, or because of the requisitioning of a part or all of their floating equipment by the War Shipping Administration.

A uniform system of accounts for freight forwarders subject to part IV of the Interstate Commerce Act was prepared in tentative form and circulated among the accounting officers interested for consideration and comments. This system of accounts will be made effective on January 1, 1943. Similar action has also been taken with respect to a uniform system of accounts for "persons furnishing protective service against heat or cold" to or on behalf of any carrier by

railroad or express company subject to part I of the act, under the provisions of section 20 (6) of that part as amended September 18, 1940. The number of individuals and companies of these classes whose accounting is brought under our jurisdiction has not been finally determined but it is expected that the law will be found to apply to approximately 155 freight forwarders and 37 persons furnishing protective service.

During the year we issued 91 orders having their inception in the work of the Bureau. Of these, 19 prescribed initial depreciation rates for certain steam railroads, pipe lines, and carriers by water, 33 modified previous depreciation orders in such respects as were found necessary as a result of continuing supervision of the depreciation rates of those classes of carriers, and 15 exempted certain carriers by water from the requirements of the uniform system of accounts for the reasons previously stated. The other 24 orders pertained to our accounting regulations for steam railroads, electric railways, pipe lines, and carriers by water, and in the main were designed to improve the regulations and fit them to changing conditions.

Among the more important of the orders last mentioned were several having as their objectives (a) the separation of surplus of steam railroads as between earned and unearned surplus; (b) inclusion in one balance sheet account of the liability for all equipment purchase obligations incurred by steam railroads; (c) reversal of previous credits made to income by steam railroads for interest, dividends, and rents receivable that are not settled when due; (d) mandatory accounting for depreciation of road property of steam railroads; and (e) permitting steam railroads and electric railways to create reserves by current charges to operating expenses covering the estimated cost of maintenance work that must be deferred because of priorities for material or shortage of labor.

At page 41 of our last report, mention was made of an order effecting a material change in the rules for accounting for the acquisition of steam-railroad property constituting an operating entity or system. That order requires that the original cost or estimated original cost of the transportation property acquired, as determined by our Bureau of Valuation, shall be stated in the property investment accounts, but that the cost to the present owner of acquiring such property, plus the amount of depreciation reserve carried over from the books of the predecessor company, shall be shown in a separate item on the balance sheet as "Investment in transportation property," the difference being included in an account styled "Acquisition adjustment." While the figures are not in all instances complete, the effect of the order may be indicated by the fact that with respect to nine steam railroads reorganized as a result of proceedings

in bankruptcy the amounts entered by the reorganized companies in accounts comprising investment in transportation property will total only about \$715,000,000 as against more than \$1,000,000,000 reflected by the comparable investment accounts of the predecessor companies. In nine instances involving the acquisition of property by purchase or merger, the comparable investment figures are approximately \$170,000,000 for the present owners and \$218,000,000 for the predecessors. Similar accounting adjustments for which data are not yet available are pending in connection with 20 reorganizations.

BUREAU OF FINANCE

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

The following is a summary of applications filed during the year for certificates of public convenience and necessity under section 1 (18) to (22) of the act, and of the disposition made of applications. In a few cases single applications filed and certificates issued were for more than one purpose. That is, they related to abandonment as well as to construction or acquisition or operation. To that extent there are duplications in the totals shown, as indicated in footnotes 1 and 2 to the table:

Item	Number	Mileage
Applications filed:		
For authority to construct new lines or extend existing lines.....	6	24.860
For permission to abandon.....	227	3,534.927
For authority to acquire or to acquire and operate.....	11	89.627
Total.....	¹ 244	3,649.414
Certificates issued:		
Authorizing new construction.....	6	37.610
Permitting abandonment.....	184	2,407.137
Authorizing operation or acquisition.....	18	163.948
Total.....	² 218	2,608.695
Applications denied:		
For authority for new construction.....	1	1.950
For permission to abandon.....	15	308.455
For authority to acquire.....		
Total.....	³ 16	310.405
Applications dismissed:		
For authority for new construction.....		
For permission to abandon.....	17	284.463
For authority to acquire or to acquire and operate.....		
Total.....	⁴ 17	284.463

¹ Includes 4 duplications.

² Includes 11 duplications.

³ Includes 4 applications denied in part.

⁴ Includes 1 application dismissed in part.

Among the applicants disposed of during the year were several pending October 31, 1941. A list of certificates issued appears in appendix D.

Since the effective date of the Transportation Act, 1920, we have authorized the construction of approximately 10,171 miles of new railroad and have issued certificates permitting the abandonment or discontinuance of operation of 28,246 miles of railroad. Based on reports by carriers and on other available information, it appears that, of the construction authorized, approximately 7,215 miles of road have been completed, and that projects covering about 2,582 miles have been abandoned or deferred. The remainder, about 374 miles, represents cases in which the specified completion periods have not expired.

ACQUISITION OF CONTROL OF ONE CARRIER BY ANOTHER

Section 5 (2) (a) of the act, as amended September 18, 1940, relates to consolidations and mergers of carriers; purchases, leases, and contracts to operate properties of carriers by other carriers; acquisitions of control through stock ownership or otherwise of carriers by other carriers or by persons not carriers; and acquisition by carriers of trackage rights over, or joint ownership or use of, railroad lines and terminals of other carriers.

Railroads.—Under this paragraph, railroad companies filed 43 applications during the year. A list of authorizations issued appears in appendix D. Two applications were denied, 6 were dismissed, and 1 was dismissed in part. One was filed jointly with a convenience and necessity application under section 1 (18) of the act.

In our last annual report (page 58) we referred to our report of July 29, 1941, in *Wabash R. Co. Control*, 247 I. C. C. 365, wherein we found, subject to certain conditions, that the acquisition by the Pennsylvania Railroad Company and the Pennsylvania Company, a holding company, of control of the Wabash Railroad Company through ownership of stock, and indirect control of certain subsidiary railroad carriers, was consistent with the public interest, but withheld the entry of an order pending submittal by the applicants of appropriate agreements to make effective our conditions with respect to the transfer of stock of the Lehigh Valley Railroad Company and the New York, New Haven & Hartford Railroad Company held by them, and the stock of the Lehigh Valley which the Wabash Railroad Company would purchase as part of the assets of its predecessor, the Wabash Railway Company. Such agreements were filed. By report and order of April 28, 1942, 252 I. C. C. 319, we approved them, and the trustees named therein. We retained jurisdiction to require the resignation of any trustee or trustees and substitution of others approved by us, and to approve any change otherwise made necessary.

Water carriers.—Four applications involving water carriers were filed under section 5 (2) of the act. A list of the authorizations appears in appendix D.

One application for approval, under section 311 (b) of the act, of temporary operation, was filed and granted, viz, that of the Skagit River Navigation & Trading Company.

Upon consideration of the application of the Atlas Corporation and the Ogden Corporation, both holding companies, and the Litchfield & Madison Railway Company under section 5 (15-16) of the act, we found that the Litchfield & Madison Railway Company does and may compete for traffic with the Mississippi Valley Barge Line Company; but that, so long as the respective operations of the railroad and the barge line remain as described in the record, continuance of interests of the Atlas Corporation and others in the barge line will not prevent that carrier by water from being operated in the interest of the public, et cetera. Accordingly, we authorized the retention of the applicants' interests in the Barge Line Company, subject to our further order or orders.

Motor carriers.—Applications filed by motor carriers under section 5 of the act are discussed herein under the heading "Bureau of Motor Carriers."

HOLDING COMPANIES

Section 5 (3) of the act provides that, whenever a person which is not a carrier is authorized under section 5 (2) to acquire control of any carrier or carriers, that person thereafter shall, to the extent provided by us in our order, be considered as a carrier subject to the provisions of section 20 (1) to (10), inclusive, of the act relating to reports, accounting, et cetera, and section 20a (2) to (11), inclusive, relating to issues of securities, et cetera.

In our order of April 28, 1942, in *Wabash R. Co. Control, supra*, we ordered that the Pennsylvania Company, a holding company subsidiary of the Pennsylvania Railroad Company, be considered a carrier subject to the provisions of the act named in section 5 (3) thereof.

In the list of authorizations granted under section 5 (2), included in appendix D, the holding-company applicants have been designated by a footnote. As the interests of those applicants in the railroad or water carriers involved are incidental to the operation of their principal businesses, such as the manufacture of steel, or the production and sale of lumber, we concluded that there was no reason for requiring them to comply with our accounting regulations or to submit to us applications pertaining to issues of their securities.

RAILWAY EMPLOYEES

Section 5 (2) (f) provides that, as a condition of our approval under paragraph 2 of any transaction involving a carrier or carriers by railroad, we shall require a fair and equitable arrangement to

protect the interests of the railroad employees affected by the transaction, and specifically directs that we shall include terms and conditions providing that during the period of 4 years from the effective date of our order, but not for a longer period than the period during which the employee was in the employ of the carrier or carriers prior to the effective date of the order, the transaction will not result in employees affected being in a worse position with respect to their employment.

In all proceedings initiated by railroads under section 5 (2), it is necessary for us to ascertain whether any employees would be affected, and, if so, to what extent. In approving transactions which involve no change in the status or interests of employees, we have imposed no conditions as to employment. Generally speaking, such transactions related to properties already operated as integral parts of systems. In some cases we have specifically reserved jurisdiction to make additional findings and impose such terms and conditions as to employment as may be required by law, if upon petition by the employees or their representatives it is made to appear that their employment or interests will be adversely affected by anything subsequently done pursuant to, or as a result of, the authorizations granted.

Pursuant to the foregoing provisions, in the past year we found it necessary to provide a plan for the protection of employees in one case, namely, *Chicago, M., St. P. & P. R. Co. Trustees Construction*, 252 I. C. C. 49 and 287. This case involved coordination of operation by the Chicago, Milwaukee St. Paul & Pacific and the Kansas City Southern Railroad Companies of their mechanical facilities and some of their tracks and yards in the Kansas City area, and the creation of new eastern entrances into Kansas City for the Chicago, Milwaukee, St. Paul & Pacific and the Chicago, Rock Island & Pacific Railway Company. The plan provided for the protection of the employees is similar to the one provided in *Texas & P. Ry. Co. Operation*, 247 I. C. C. 285, described on page 61 of our last annual report, except that the allowance of each employee affected is to be computed on the basis of the compensation received by him in the last 12 months in which he earned compensation immediately preceding the date when his status is affected as a result of the transaction, whereas in the *Texas & Pacific case*, above cited, it was provided that the allowance be based on the compensation received in the 12-month period immediately preceding the date the status of the employee was affected.

Since our last report, the United States Supreme Court, in *Interstate Commerce Commission v. Railway Labor Executives' Assn.*, 315 U. S. 373, decided March 2, 1942, held that we have authority to impose conditions for the protection of employees displaced by railroad aban-

donments, but indicated that whether such conditions should be attached and, if so, their nature and extent are matters for us to determine in the light of the evidence. In proceedings involving abandonment of portions of railroad systems, where it appeared that employees might be affected, and timely requests were made for their protection, we have reserved jurisdiction to consider the question whether conditions should be imposed for the protection of employees adversely affected by anything done pursuant to the permission to abandon granted. In several cases wherein we so retained jurisdiction, a trunk-line carrier and one of the employee organizations have entered into agreements with respect to the members of the organization affected by the abandonments permitted. In cases involving the abandonment of the entire line, or system, of railroad companies, we have declined to impose conditions for the protection of employees.

ISSUANCE OF SECURITIES AND ASSUMPTION OF OBLIGATION

We have received 72 applications and supplements thereto under section 20a. We have entered 78 orders authorizing the issue or modification of securities and the assumption of obligations and liabilities in respect of the securities of others in the total amounts and for the purposes shown in appendix D, and 3 applications were dismissed.

Under section 20a (9), certificates of notification of the issue of notes maturing within 2 years in the total sum of \$5,247,964.12 were filed.

The tabulation in appendix D includes all securities authorized, whether for nominal, conditional, or actual issue.¹ It does not include notes and other obligations given the Reconstruction Finance Corporation by carriers to evidence or secure loans by that Corporation to them, as neither our authorization of such issues nor the reporting thereof under the provisions of section 20a is required.

The following tabulation shows by classes the respective amounts of securities authorized:

Class of security	Nominal issue	Conditional issue	Actual issue
Common stock.....			\$7, 239, 505. 00
Preferred stock.....			124, 153, 997. 50
Mortgage bonds.....	\$31, 000, 000	\$121, 066, 000	314, 649, 454. 00
Collateral-trust bonds.....			4, 000, 000. 00
Income bonds.....			101, 603, 816. 00
Secured notes.....		9, 082, 000	19, 092, 202. 23
Unsecured notes.....			9, 546, 290. 04
Equipment-trust obligations.....			65, 441, 000. 00
Trustees' certificates.....			9, 850, 000. 00
Certificates of deposit.....			24, 918, 000. 00
Total.....	31, 000, 000	21, 148, 000	680, 494, 264. 77

¹ Also 4,136,192 shares without par value.

² These terms are defined at page 7 in the annual report for 1931.

The amounts shown as authorized for actual issue do not include securities delivered by a subsidiary to a controlling company subject to our jurisdiction unless the controlling company has been authorized to dispose of the securities. Such securities are included under either "nominal issue" or "conditional issue," as may be appropriate.

Of the securities for nominal issue, \$5,500,000 were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding.

Of the securities for conditional issue, \$3,566,000 of mortgage bonds and \$16,000 of secured notes were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding, and \$8,500,000 of mortgage bonds had been previously authorized for nominal or conditional issue.

Of the securities for actual issue, \$6,004,925 of common stock, \$180,492,602 of mortgage bonds, \$16,202.23 of secured notes, \$4,732,091.26 of unsecured notes, \$9,850,000 of trustees' certificates, and \$992,000 of equipment-trust obligations were authorized to be issued in exchange for, in lieu of, or to pay, extend, or refund other securities. From the foregoing, it appears that additional capitalization to result from the various authorizations is as follows: Nominal issue, \$25,500,000; conditional issue, \$9,066,000; actual issue, \$478,406,444.28; and 4,136,192 shares of common stock without par value.

During the period covered by this report, the amount of temporary financing was about 31 percent more than that of the previous period, and, as indicated below, about 37 percent thereof was for the purpose of renewing or refunding existing obligations. The amount of short-term notes issued without our authorization is shown above. Of this amount, \$1,914,889.31 was for renewal of notes previously issued, and the remainder was to obtain additional funds for current corporate requirements. In addition, there are included in the foregoing tabulation secured and unsecured notes of a maturity of not more than 3 years and aggregating \$1,602,345.57 authorized by us for actual issue. Of these short-term notes, \$309,600 was to pay, renew, extend, or refund outstanding securities, and \$1,292,745.57 was for other corporate purposes.

Upon petition of certain carriers we have entered supplemental orders reducing the amount of securities originally authorized. These orders effect reductions of \$2,431,500 in mortgage bonds and \$589,070.89 in preferred stock.

As indicated above, the additional capitalization resulting from the various authorizations amounts to \$512,972,444.28 and 4,136,192 shares of common stock without par value, of which \$64,449,000 represents

equipment-trust obligations issued to obtain new money for the purchase of equipment.

The new financing represented by the issue of equipment-trust obligations is \$210,910,000 less than in the preceding period. The decline in the amount of equipment-trust obligations was due to the inability of carriers to procure equipment as a result of priorities imposed because of defense and war efforts. The interest rates and average cost are somewhat higher than during the preceding 12 months. The nominal rates borne by these obligations have ranged from 1.75 to 4 percent, the average being 2.31 percent, and the prices at which they have been sold resulted in an average annual cost to the carriers of 2.31 percent.

During the period covered by this report, the proceedings under section 20a in respect of the Wabash Railway Company receivership have been concluded and the new company, Wabash Railroad Company, authorized to issue the securities and to assume obligations necessary to effect the reorganization.

INTERLOCKING DIRECTORATES

Under the provisions of section 20a (12), it is unlawful for any person to hold the position of officer or director of more than one carrier by railroad or corporation organized for the purpose of engaging in transportation by railroad, unless such holding shall have been authorized by our order. During the period covered by this report, we received 219 applications from individuals and 1 from a carrier. Disposition was made of 222 applications, of which 209 were granted, 9 were withdrawn, 3 were denied, and 1 was denied in part and granted in part.

PROGRESS OF REORGANIZATIONS

Railroads in bankruptcy.—Since our last report, one additional proceeding for reorganization of a railroad company under section 77 of the Bankruptcy Act, as amended, has been instituted. This proceeding involves the Chicago, North Shore and Milwaukee Railroad Company, an electric railroad which had been in receivership since September 1932. The petitioners, who were creditors, being uncertain as to whether reorganization of the carrier should be effected under section 77 or under chapter X of the Bankruptcy Act, filed a concurrent petition under chapter X, and requested the court to determine which of the petitions was properly filed. The court determined that the petition under chapter X was properly filed, and dismissed the petition filed under section 77. An appeal from that decision has been taken.

Since our last report, original petitions previously filed for reorganization of the New Jersey & New York Railroad Company and the Tampa Northern Railroad Company have been approved by the courts as properly filed. The New Jersey & New York Railroad Company since June 1938 had been a subordinate debtor in the proceedings before an Ohio district court for reorganization of the Erie Railroad Company and certain of its system companies. During the year, the Ohio district court ordered that all the property of the New Jersey & New York Railroad Company theretofore vested in the trustees appointed by the Ohio court be vested in the trustee appointed in the New Jersey district court, and that the trustees in the proceeding before the Ohio court be discharged.

In the Erie Railroad system proceeding, the judge of the district court ordered that the trustees of the property of the Nypano Railroad Company, a subsidiary debtor in that proceeding, be discharged, that the resignation of one of the two cotrustees of the property of the Erie Railroad Company be accepted, and that the remaining cotrustee continue as sole trustee of the property of the Erie Railroad Company at a stated salary and under a reduced bond. In the Kansas City, Kaw Valley & Western Railroad Company proceeding, the trustees in bankruptcy were discharged by order of the court, which, however, retained jurisdiction of the cause for the purpose of making such corrective or other orders as might be found to be necessary.

In the Spokane International Railway system proceeding, the assets of the debtor were transferred to the new company during the year, but the trustees in bankruptcy have not yet been discharged.

The Nevada Copper Belt Railroad Company, which had been in receivership since April 1925, was placed in trusteeship on June 30, 1941, at which time the receivership was terminated and a trustee was appointed by order of the district court, the trustee, under the terms of the order to hold and operate the property pending sale and disposition thereof as provided in the order. Appointment of the trustee was not referred to us for ratification. On August 8, 1941, the Nevada Copper Belt Railway Company was incorporated for the purpose of acquiring and operating the property in question; and, as the highest bidder at a foreclosure sale, purchased the property on August 12, 1941, subject to approval by us. The sale was confirmed by court order of September 4, 1941. On February 19, 1942, upon application filed in Finance Docket No. 13521 under sections 5 (2) and 20a of the Interstate Commerce Act, we approved and authorized the purchase and operation by the Nevada Copper Belt Railway Company of the properties formerly owned by the Nevada Copper Belt Railroad Company, and authorized the issuance

by the Nevada Copper Belt Railway Company of certain securities in connection with the purchase (252 I. C. C. —).

A list of all railroad reorganization proceedings before us, of which there are now 33 exclusive of the Chicago, North Shore & Milwaukee Railroad Company, is shown in appendix E.

Our approved plan of reorganization for the Fort Dodge, Des Moines & Southern Railroad Company (244 I. C. C. 625) was confirmed during the past year.

During the year, the circuit court of appeals rendered an opinion upholding confirmation by the district court in a prior year of our plan of reorganization for the Chicago & North Western Railway Company (239 I. C. C. 613). Petitions for certiorari to review the decision of the circuit court are pending before the Supreme Court. Likewise during the year, the circuit court of appeals affirmed the district court's order entered in the preceding year confirming our plan of reorganization for the Akron, Canton & Youngstown Railway Company (228 I. C. C. 645).

During the year, our plans of reorganization for the Boston & Providence Railroad Corporation (244 I. C. C. 341), the New York, New Haven & Hartford Railroad system (244 I. C. C. 521), and the St. Louis-San Francisco Railway Company (242 I. C. C. 523), which had been certified to the courts in prior periods, were disapproved by the respective district courts and referred back to us for further action. Appellate courts during the year reversed the decisions of the district courts approving our plans of reorganization for the Chicago, Milwaukee, St. Paul & Pacific Railroad Company (240 I. C. C. 257) and the Western Pacific Railroad Company (233 I. C. C. 409), and directed that the plans be returned to us for further findings. Writs of certiorari to review the judgments of the circuit courts of appeals in these two cases have been granted by the Supreme Court.

Our plan of reorganization for the Erie Railroad system (240 I. C. C. 469) was confirmed by the district court in the preceding year. During the present period, in that proceeding, we authorized the issuance of securities provided for in the plan, and the acquisition of the debtor's properties by the reorganized company. Thereafter the property in the hands of the trustees in reorganization was deeded to the new company as of December 22, 1941. Subsequent to that date, we have approved under section 77 (f) of the Bankruptcy Act, as amended, and under section 5 of the Interstate Commerce Act, the acquisition by the reorganized Erie Railroad Company of the properties of 11 subsidiary nondebtor companies, and have authorized, under section 20a of the Interstate Commerce Act, the issuance of certain securities and the assumption of certain obliga-

tions and liabilities by the reorganized company, in accordance with permissive provisions of the confirmed plan of reorganization. Similarly, prior to December 22, 1941, but within the period covered by the present report, we had approved under the provisions of the acts above mentioned and in conformity with the provisions of the confirmed plan, the acquisition by the debtor's trustees of control by purchase of stock of 2 subsidiary nondebtor companies, and the acquisition by the debtor, or its successor in reorganization, of the properties of those 2 and 6 other subsidiary nondebtor companies. Hearings were held during the year on all of the foregoing applications, one of which had been filed with us during the period covered by our last report. Under section 77 (f) of the Bankruptcy Act, as amended, and section 20a of the Interstate Commerce Act, and in accordance with the permissive provisions of the confirmed plan of reorganization, we also granted authority to the Erie Railroad Company, as reorganized, to issue certain securities in exchange for designated bonds of a nondebtor subsidiary lessor company in provisional settlement of the claim of the bondholders arising from rejection of the lease by the trustees of the debtor.

A modified plan of reorganization was filed since our last report, by a protective committee for holders of bonds of the Chicago, Indianapolis & Louisville Railway Company. In a prior year, we had refused, without prejudice to a continuation of the proceeding, to approve a plan of reorganization of that debtor. Hearings on the modified plan have been concluded. Following disapproval by the district courts of our plans of reorganization for the Boston & Providence Railroad Corporation, *supra*, and the New York, New Haven & Hartford Railroad system, *supra*, those proceedings were reopened and further hearings were held for the purpose of receiving additional evidence or otherwise supplementing the records. After the further hearings in the New York, New Haven & Hartford Railroad system proceedings had been closed, the Boston & Providence Railroad Corporation filed a petition in that proceeding requesting that the record be reopened for receipt of a proposed amendment to the plan, and further hearings held for the introduction of evidence upon the proposed amendment. Objection thereto was made in a joint answer filed by the debtor and three interveners. We ordered the proceeding reopened to receive the proposed amendment and certain testimony and evidence in connection therewith which had been presented in the separate proceeding for reorganization of the petitioner, and we denied that part of the petition requesting further hearing upon the proposed amendment. In the same proceeding, upon petition filed after the close of the hearings, we permitted five persons to intervene as individuals and as an informal group. We denied a petition filed after

the close of the hearings in the Boston & Providence Railroad Corporation proceeding by a mortgage trustee that further hearings be held, and denied also the petitioner's request for reconsideration of its petition.

The hearings in the Alabama, Tennessee & Northern Railroad Corporation proceeding were reopened to receive a stipulation into the record, and, similarly, in the Minneapolis, St. Paul & Sault Ste. Marie Railway Company proceeding, we reopened the record to receive a proposed traffic agreement. Upon petition of the debtor's trustee, we also reopened the record in the Fonda, Johnstown & Gloversville Railroad Company proceeding to receive the statements and schedules annexed to the petition. An intervener representing the interests of railroad employees filed petitions in the Chicago, Rock Island & Pacific Railway system and Missouri Pacific Railroad system cases, requesting that the proceedings be reopened for the purpose of establishing the terms of fair and equitable arrangements for the protection of employees affected by certain consolidations contemplated in the plans approved by us (252 I. C. C. 483 and 240 I. C. C. 15, respectively). Answers were filed by other interveners, and we denied the petitions without prejudice to renewal of them at a proper time when the matters related thereto and to grants of authority contemplated in the plans were under consideration by us.

In the reopened Denver & Rio Grande Western Railroad system proceeding, we extended the date for oral argument on the proposed report which had been issued in the previous year, and which contained the examiner's recommendations for revision of the plan previously approved by us in 239 I. C. C. 583, but referred back to us by the district court. Oral argument was heard. We also heard oral argument on exceptions to the proposed reports issued last year in the Florida East Coast Railway Company and the Minneapolis, St. Paul & Sault Ste. Marie Railway Company cases.

A proposed report was issued in the matter of a formula for segregation and allocation of earnings and expenses of the Central of Georgia Railway Company, debtor, between and to its mortgaged and leased lines, to which report exceptions were filed. We later issued a final formula report in this proceeding (252 I. C. C. 587), after which the debtor's trustee filed a petition for rehearing, to which a reply brief, embodying also a cross petition, was filed by an intervener. Both petitions were denied by us.

Final reports on plans of reorganization were issued during the year in proceedings of the Florida East Coast Railway Company (252 I. C. C. 423), the Fonda, Johnstown & Gloversville Railroad Company (249 I. C. C. 455), and the Minneapolis, St. Paul & Sault Ste. Marie Railway Company (252 I. C. C. 525). In all three of these

proceedings petitions for modification were filed, and without further hearings we issued modified final reports therein, viz, Florida East Coast Railway Company (252 I. C. C. 731), Fonda, Johnstown & Gloversville Railroad Company (252 I. C. C. 406), and Minneapolis, St. Paul & Sault Ste. Marie Railway Company (252 I. C. C. 615). Final reports also were issued in the reopened proceedings of the Boston & Providence Railroad Corporation (— I. C. C. —), the Denver & Rio Grande Western Railroad system (— I. C. C. —), and the New York, New Haven & Hartford Railroad system (252 I. C. C. 691), containing further modifications of the modified plans previously approved by us in 244 I. C. C. 341, 239 I. C. C. 583, and 244 I. C. C. 239, respectively. Petitions for modification have been filed in the case of the Denver & Rio Grande Western Railroad system and are under consideration.

In addition to the modified reports mentioned above, we modified upon petitions but without further hearings the final reports issued by us during the preceding year in the proceedings for reorganization of the Alabama, Tennessee & Northern Railroad Corporation (252 I. C. C. 385) and the St. Louis Southwestern Railway system (252 I. C. C. 325). In the Chicago, Rock Island & Pacific Railway system proceeding, we issued, upon petition, a supplemental report (252 I. C. C. 483) further describing the method of allocating new securities, and containing schedules and explanatory notes used by us in making such allocations in the modified final plan approved by us in 249 I. C. C. 297.

Final reports which we issued during the year were served on the parties and were certified to the respective courts of jurisdiction. The district court has approved our plan of reorganization for the Alabama, Tennessee & Northern Railroad Corporation, *supra*, but the decision has been appealed to the circuit court of appeals.

At the close of the year covered by our preceding report the plan of reorganization approved by us and by the court for the Fort Dodge, Des Moines & Southern Railroad Company, *supra*, was under submission to the creditors for their acceptance or rejection, but the period fixed for voting had not yet terminated. In this case, we denied the petition of certain interveners requesting extension of the voting period. During the year, we submitted to the qualified voters the plans approved by us and by the courts for reorganization of the Missouri Pacific Railroad system, *supra*, and the Yosemite Valley Railway Company (244 I. C. C. 189). The results of submission in all three of the above-mentioned cases have been certified to the respective courts of jurisdiction. In the Missouri Pacific Railroad system case, we denied the petition of an intervener requesting that certification of the results of the balloting be withheld temporarily.

Appointments of two trustees and two successor cotrustees have been ratified by us in four proceedings, in one of which we held a public hearing. In one of these proceedings, a cotrustee died after ratification by us of the other successor cotrustee, and the latter has since acted as sole trustee upon authority of the court.

Maximum limits of compensation of the trustees of the debtors, trustees' counsel and special counsel, and other parties, and of reimbursement of expenses of parties involved in reorganization proceedings have been approved by us in 18 proceedings, in 6 of which hearings were held during the year as required by section 77, and in 3 of which hearings had been held during the year covered by our last report. Other petitions in 2 of these proceedings are pending, as are petitions in 2 additional proceedings, hearings having been held in 3 of the 4 proceedings in which petitions are pending. In the case of one sole trustee, we also approved a maximum limit of additional compensation for extraordinary services rendered by him, and in the case of the above-mentioned successor cotrustee who later became sole trustee we denied a petition for reconsideration of the maximum limit of his compensation as sole trustee as fixed by us previously within the year. In 4 of the above-mentioned 18 proceedings, petitions were filed during the year requesting reconsideration and modification of our prior reports approving maximum limits of compensation and expenses, oral argument on the petitions being requested in some instances. In 1 of the proceedings we modified our former report, and in the other 3 proceedings the petitions were denied. Similarly, we modified our prior report in another proceeding in which petitions were pending at the close of the preceding year, denying other petitions in that proceeding; and in the same proceeding we have under reconsideration 3 petitions which were referred back to us by the court.

In the Chicago & North Western Railway Company proceeding, we denied a stockholders' protective committee's petition, which also embraced three other separate proceedings, requesting that we reopen the proceeding relating to the fixing of maximum limits of compensation for services rendered and reimbursement of expenses incurred by the committee's secretary-manager-technical adviser, and by other associated interests, as set forth in 247 I. C. C. 101, and that we issue a supplemental report disclosing in detail the bases in the record and the methods of computation relied upon in fixing such maximum limits.

After further hearing, we modified our prior report in a reorganization proceeding in respect of the maximum allowance fixed for expenses of the reorganization managers; and we also approved a maximum limit of reasonable expenses, not including counsel fees

and expenses, incurred or to be incurred by the reorganization managers in a receivership proceeding.

During the year we certified to the respective courts of jurisdiction copies of the record made before us on plans of reorganization in four proceedings, and copies of the record made before us on petitions for maximum allowances of compensation and expenses to parties in two additional proceedings. Pursuant to the provisions of subsections (c) (11) and (e), we also certified to the courts certain costs incurred by us in four reorganization proceedings.

During the year applications for subsection (p) authorization were filed by two protective committees in two reorganization proceedings, and by one protective committee in a receivership proceeding. Hearings have been held on all of these applications. A hearing has also been held on an application for subsection (p) authority filed during the year by the reorganization managers in another receivership proceeding. In the two reorganization cases, one of the applications has been granted, and one has been denied. We have granted authorization to the protective committee and to the reorganization managers in the two receivership proceedings. Authorization also was granted to the reorganization managers in an additional receivership proceeding pursuant to application filed, and a hearing held, in the preceding year, and to a protective committee in another reorganization proceeding in which a hearing was held during the present year on an application which was pending at the close of the preceding year. In one of the reorganization proceedings, we dismissed a protective committee's application which had been filed with us during the period covered by our last report.

Upon applications, one of which had been filed in the preceding year, we issued two modification orders in one of the above-mentioned reorganization proceedings, three modification orders in one of the above-mentioned receivership proceedings, and one modification order in another receivership proceeding. In the reorganization proceeding just referred to, we approved, upon petition by a protective committee, a budget of proposed expenditures, and we have under consideration the petition of another protective committee requesting additional solicitation authority involving also our approval of the committee's budget of proposed expenditures. Hearings were held on both of these petitions. There is pending in another reorganization proceeding a petition for modification in connection with which we have issued a proposed report of denial and have heard oral argument on exceptions thereto.

In our Fifty-fifth Annual Report, we included, at pages 73, 74, and 75, tabulations showing the changes in capitalization, debt, and annual fixed charges which would result from plans of reorganization ap-

proved by us. At the close of the present period, we have approved plans which would effect reductions in long-term debt of the railroads involved amounting to \$1,527,228,000 of principal, and of \$2,280,818,493 of principal and interest. Par value of stock would be reduced by \$738,746,000, while there would be an increase of 11,514,440 in shares of no-par-value stock. Under these plans, annual fixed charges would be reduced \$101,225,626. The proceedings in which most of these changes have been proposed during the current year are those for reorganization of the Alabama, Tennessee & Northern Railroad Corporation, Denver & Rio Grande Western Railroad system, Florida East Coast Railway Company, Fonda, Johnstown & Gloversville Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and St. Louis Southwestern Railway system.

Railroads in receivership.—A list of the railroads in charge of receivers is shown in appendix E to this report.

Since our previous report, the receivership proceedings of the Norfolk Southern Railroad Company and the Wabash Railway Company have terminated, and the properties have been taken over as of January 1, 1942, by the new companies organized for that purpose, to wit, the Norfolk Southern Railway Company and the Wabash Railroad Company, respectively. The properties of the Louisiana Southern Railway Company were also returned to the possession of the company as of August 1, 1942, without adjustment of the financial structure.

The properties of the Minneapolis & St. Louis Railroad Company were sold on July 24, 1942, and the sale has been confirmed by the court having jurisdiction of the receivership. These properties will be acquired by two new corporations, the Minneapolis & St. Louis Railway Company and the Minneapolis & St. Louis Railroad Corporation, which were organized to carry out the plan of reorganization. The securities to be issued are substantially as stated in our prior report except the amount of second-mortgage income bonds, series A, has been reduced from \$2,081,500 to \$2,015,000 because of increased cash payments to be made to certain classes of creditors. Consummation of the reorganization will terminate this long receivership, which began on July 26, 1923.

RECONSTRUCTION FINANCE CORPORATION ACT

Since our last report, we have approved loans under the Reconstruction Finance Corporation Act aggregating \$14,368,000 upon applications filed by two carriers. Both loans required our certification that on the basis of present and prospective earnings the applicant might reasonably be expected to meet its fixed charges without reduction thereof through judicial reorganization.

We have approved upon applications of 4 carriers the purchase of \$9,988,000 of their securities by the Reconstruction Finance Corporation, this amount including approval to one carrier of \$4,626,000, which may be exercised either through the purchase, or purchase and guaranty, or guaranty, of its securities. In the case of another carrier our prior approval within the year in the amount of \$342,000 was later revoked upon request of the applicant. A detailed statement will be found in appendix D.

The principal purposes for which loans have been approved during the year, and the total for each purpose, are as follows:

To effectuate a confirmed plan of reorganization:

Payment of bonds and notes of debtor, principal-----	\$8,932,108.37
Payment of interest on bonds and notes of debtor-----	388,681.18
Payment of allowances under section 77 (c) (12) and taxes, and reimbursement of working capital-----	3,679,210.45
Payment of other reorganization expenses-----	1,000,000.00

Total-----	14,000,000.00
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To effectuate a receivership plan of reorganization:

Improvement program and working capital-----	368,000.00
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Purchases of applicants' securities in the above-mentioned amount of \$9,988,000 were approved for the following purposes:

Purchase of equipment-----	\$5,988,000
Bond maturities, principal-----	4,000,000

The aggregate net amount of loans, purchases of securities, and guaranties approved by us under this act is \$906,228,336.62, inclusive of \$6,000,000 approved under section 201 of the Emergency Relief and Construction Act of 1932.

Since work under the Reconstruction Finance Corporation Act was initiated in February 1932, applications for financial aid have been filed by 204 carriers or their receivers or trustees. Loans or other financial aid to 95 of these applicants were approved, some of the carriers receiving approval of more than 1 application. The applications of 23 others were approved, but the approvals later were revoked. For various reasons, we were unable to approve the applications of 47 carriers, and in the case of 37 others the applications were dismissed, usually with the consent of the applicants. The applications of 2 other carriers are under investigation.

We have approved the extension of the time of payment of 95 loans aggregating \$571,110,013.09 upon applications filed by 41 carriers. Some of the carriers have applied for extensions on more than 1 loan and have had more than 1 extension of the same loan. Of these extensions, 92 were approved subsequent to June 19, 1934, the effective date of the amendment of section 5 of the act requiring as a condition

precedent to such approval our certification that the carrier was not in need of reorganization in the public interest.

REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL

In our last report, it was stated that during the year we had reopened the claims of 60 railroads under section 204 of the Transportation Act, 1920, as amended on January 7, 1941. Since our last report, 1 of the reopened claims has been certified by us for payment in the amount of \$10,261.05; 17 have been dismissed; and 6 are pending. In 5 of the pending cases, proposed reports of the Bureau have been served on the carriers, while in the remaining case the claim is under further investigation. A detailed statement will be found in appendix D.

Exceptions to the Bureau's proposed reports were taken by the California Western Railroad & Navigation Company and by the Tremont & Gulf Railway Company, and hearings thereon were held. In the former case an examiner's proposed report has been issued, and in the latter case a proposed report is in course of preparation. Oral argument was heard on exceptions to the examiner's proposed report in the California Western Railroad & Navigation Company case.

Since work under amended section 204 was initiated in February 1941, 6 of the reopened claims have been certified by us for payment in the aggregate amount of \$181,584.39; 47 claims, aggregating \$3,618,879.90, have been dismissed; and 6 claims, aggregating \$786,231.14, are pending. In addition, a certificate in the amount of \$3,018.19 was issued in the Savannah & Southern Railway case in partial liquidation of an amount of \$3,565.45 due from that company to the United States Government under section 209.

LOANS TO CARRIERS AFTER FEDERAL CONTROL

Our duties during the year in connection with the revolving fund created by section 210 of the Transportation Act, 1920, have been only such as are usually incidental to supervision by the Secretary of the Treasury of loans outstanding under this section.

During the year, no payments were made on the principal of such loans outstanding.

Since the effective date of the act, we have certified loans to carriers aggregating \$350,600,667, of which \$325,909,489.12 has been repaid, leaving an unpaid balance of \$24,691,177.88, all of which has matured. Interest paid on loans amounts to \$91,585,055.05. Interest in default to October 1, 1942, amounts to \$14,662,097.66.

A list of outstanding loans and of principal and interest due and in default appears in appendix D.

CERTIFICATES UNDER THE REVENUE ACT OF 1939

Under the provisions of section 215 of the Revenue Act of 1939, approved June 29, 1939, the amount of any income of a corporation attributable to the discharge, within the taxable year, of any of its indebtedness evidenced by a security is exempt from taxation, if it is established to the satisfaction of the Commissioner of Internal Revenue or if it is certified to the Commissioner of Internal Revenue by any Federal agency authorized to make loans on behalf of the United States to such corporation or by any Federal agency authorized to exercise regulatory powers over such corporation that at the time of such discharge the corporation was in an unsound financial condition. The regulations of the Bureau of Internal Revenue refer to this Commission as such a Federal regulatory agency. Pursuant to application, we have certified, since our last report, that at the time of the discharge of its old security obligations pursuant to section 77 of the Bankruptcy Act, as amended, the Erie Railroad Company was in an unsound financial condition.

BUREAU OF FORMAL CASES

The formal complaints filed numbered 188, of which 167 were original complaints and 21 subnumbers, an increase of 8 as compared with the previous period. We decided 291 cases, and 119 have been dismissed by stipulation or on complainants' requests, making a total of 410 cases disposed of, as compared with 416 during the previous period.

Approximately 19 formal and investigation and suspension cases have been reopened for further hearing and reconsideration.

We conducted 637 hearings and took approximately 85,586 pages of testimony, as compared with 772 hearings and 88,939 pages of testimony during the preceding period.

The following statement shows certain facts with respect to the condition of this docket as of October 31 of the years indicated:

	1939	1940	1941	1942
Formal complaints filed.....	222	216	160	167
Subnumbers.....	20	10	20	21
Investigation and suspension cases instituted.....	180	108	230	93
Cases under submission at end of period:				
Regular docket.....	145	78	112	72
Shortened procedure.....	32	14	21	15
Cases disposed of including subnumbers and reopened cases.....	689	594	458	1 455
Number of pending cases.....	588	471	523	372

¹ Does not include the following cases disposed of by formal reports: 146 covering fourth-section applications; 9 covering ex parte proceedings; 2 covering questions arising under the provisions of the Railway Labor Act; and 112 covering applications of water carriers for exemption from the provisions of part III of the Interstate Commerce Act and for authority to operate as water carriers.

SHORTENED PROCEDURE

Approximately 27 percent of the total number of formal complaints are now handled by the shortened procedure method as compared with 35, 34, and 41 percent during the 3 preceding years. In cases so handled and decided during this year the average elapsed time to reach a decision was 333 days from the receipt of complaint and 194 days from receipt of the final memorandum. The corresponding periods during the 3 preceding years were 373 and 231 days, 350 and 220 days, and 337 and 193 days, respectively. The following statement gives details concerning the docket as of October 31 of the years indicated:

Explanation	1939	1940	1941	1942
Suggested for handling under the shortened procedure, either by us or by the parties.....	107	113	77	63
In which method not accepted by one or more of the parties.....	28	34	20	19
In which agreement was subsequently reached by the parties, making further formal proceedings unnecessary:				
Before service of complainant's memorandum.....	10	2	4	3
After service of complainant's memorandum.....	4	2	0	1
In which complaints withdrawn.....	9	6	6	2
Dismissed for want of prosecution.....	0	0	1	0
Decided.....	73	69	57	48
Pending in various stages short of submission.....	35	53	32	24
Pending under submission at end of period.....	32	14	21	15
Total pending cases.....	67	67	53	39

BUREAU OF INFORMAL CASES

The number of informal complaints received was 553, a decrease of 92. The rail carriers filed 2,133 special-docket applications for authority to refund amounts collected under the published tariffs and admitted by them to have been unreasonable, a decrease of 692. Orders authorizing refunds were entered in 2,120 cases, a decrease of 376, and reparation thereunder was awarded in the sum of \$440,806.11. In addition, 175 cases were dismissed or disposed of without orders. The Bureau also handled approximately 5,000 letters, many of which had the characteristics of informal complaints although not classified as such.

BUREAU OF INQUIRY

Our staff of attorneys and special agents in this Bureau directed and conducted in excess of 200 investigations of alleged violations of parts I and III of the Interstate Commerce Act and related statutes. Other investigations were made at numerous points to ascertain (a) whether or not certain of the service orders issued under the emergency powers conferred upon us by section 1, paragraphs (10) to (17), inclusive, of the act were being observed, and (b) the extent to

which such orders resulted in the conservation of railroad cars. Still other investigations were made to develop evidence in disbarment proceedings involving alleged unethical conduct of practitioners.

The evidence developed by our investigations disclosed that some railroads had engaged in practices in connection with the furnishing of empty cars to shippers which resulted in serious losses of revenue and wasteful use of equipment. Freight charges were computed on the basis of minimum weights for cars represented as having been ordered rather than the minimum weights applicable for cars actually furnished. This method of computation was followed on the false premise that the cars alleged to have been ordered were not available and that other cars were furnished for carrier's convenience. In certain instances a car of a greater length than that claimed to have been ordered was furnished. In other instances, 2 short cars were furnished in lieu of a longer car represented as having been ordered, and charges were assessed on the basis of the minimum weight provided for the single car rather than on the basis of the minimum weights provided for the 2 cars furnished. Curiously enough, at 1 station it was found that a carrier on the same days furnished the same shipper with 2 40-foot cars in lieu of a 50-foot car represented as having been ordered, and 1 50-foot car in lieu of a 40-foot car represented as having been ordered, on the pretext that in each instance the car ordered was not available. In both instances, the shipper received the equipment which best suited its particular needs, and there was no legitimate reason for not computing charges on the basis of the minimum weights for the cars actually furnished. Based on these practices, informations were filed against 10 railroads and 14 shippers in 5 different districts. All of the defendants entered pleas of guilty or of *nolo contendere*, and fines aggregating \$105,000 were imposed.

The filing by shippers of false claims for damage by carriers to shipments in transit is a practice which persists. Three indictments against receivers of vegetables at New York, N. Y., which were based on claims filed by them with carriers on the Pacific coast for alleged freezing damage, were disposed of during the year by pleas of *nolo contendere* and the imposition of fines aggregating \$19,000. These claims were supported by certified false accounts of sales which purported to show that portions of shipments represented as having been received in a frozen condition were sold for less than other portions of the shipments. As a matter of fact, there was no segregation of the different portions when sales were made, and the same price was received for all.

Another practice disclosed by our investigations was the furnishing by shippers to carriers of false reports of weights for the purpose of obtaining transportation at less than the lawful freight charges. Fines ranging from \$500 to \$5,000, and totaling \$20,150, were imposed upon

nine shippers of grapes from California points to eastern destinations who entered pleas of guilty to indictments based on this practice. Each of the defendants also was placed on probation for 3 years, and two former railroad employees, who assisted the shippers in perpetrating their frauds, on pleas of guilty were sentenced to imprisonment for 1 year and placed on probation for an additional 3 years. Certain of these shippers changed the figures appearing in public weighmasters' reports of weights so as to make it appear that the weights shown on shipping orders presented to the carriers were correct, and the others falsely represented on the shipping orders the size of the containers in which the grapes were packed, thus inducing the carriers to compute freight charges on the basis of estimated weights published in tariffs for containers of smaller dimensions than those actually used.

One investigation produced evidence of a device by which a railroad granted a concession to a large shipper. Land purchased by the carrier's subsidiaries was donated to the shipper for use in connection with the construction of a plant which produced a substantial volume of traffic for transportation over the carrier's rails. Informations charging the granting and receiving of concessions in violation of section 1 of the Elkins Act were returned against the carrier and the shipper, and a fine of \$10,000 was imposed upon each defendant upon pleas of guilty.

Unauthorized deliveries of shipments constituted another means of granting concessions which our investigations brought to light. Order-notify shipments were delivered at destination in advance of the surrender of the bills of lading therefor, and advise shipments were delivered to the "advise" party named in the bills of lading in advance of the surrender by that party of the order from the consignor authorizing the carriers to make such deliveries. Thus, possession of the shipments was accorded by the carriers in advance of the payment of the drafts attached to bills of lading and to the delivery orders and sent to banks at destination for collection. In this manner, the parties who received the shipments were able to dispose of them and in effect do business with the consignor's funds; and the carriers assumed the responsibility of making good to the consignors for the value of the shipments if, as actually happened in certain instances, the drafts were not honored. Prosecution of three carriers, three carrier officials, one private-car company, and four shippers, which were founded upon these unauthorized deliveries, were concluded during the year by pleas of *nolo contendere* or of guilty. Fines ranging from \$1,000 to \$10,000, and aggregating \$34,000, were imposed upon the defendants other than shippers. Two of the shippers were fined \$1,000 each; and the other two were given suspended sentences of 30 days' imprisonment and placed on probation for 1 year.

Failure of carriers and shippers to comply with tariff provisions was brought to light by our investigations. At several important cities where tariffs providing transit privileges on grain were in force, it was discovered that disregard of certain provisions of such tariffs by both carriers and shippers resulted in the transportation of numerous shipments of grain at less than the lawful rates. The transit rules require that freight bills for in-bound shipments to the transit point be registered with the carriers by the operators of all elevators or mills for the purpose of availing themselves of the privileges provided in the tariffs, and that, when a quantity of grain is forwarded from the transit point, a paid freight bill for a similar amount of grain which moved in-bound to the transit point must be surrendered to the carriers. Another requirement is that where the tonnage of grain represented by the paid in-bound freight bills in the possession of an elevator or mill operator exceeds the tonnage of grain actually on hand in the elevator or mill, a sufficient number of bills must be canceled to produce an equalization. This rule was not enforced by the carriers or by the operators, and in consequence those operators were placed in a position where they could, and did, surrender against out-bound shipments of grain from the transit points in-bound freight bills which previously should have been canceled. In this manner, the operators, instead of paying the local rates from the transit points on grain shipped therefrom, obtained the transportation of such grain at the balance of through rates applicable from points of original shipment. As a result of our investigation, certain of the carriers now are engaged in correcting their transit accounts with the operators.

Prosecutions of 10 shippers, and of a traffic consultant employed by them, for violations of other transit tariffs were concluded during the year by the imposition of suspended sentences and the placing of each of the defendants on probation for 15 months upon their pleas of *nolo contendere*. These defendants obtained transportation of potatoes from the transit point to destinations beyond at the balance of through rates from points of original shipment, by falsely representing to the carriers that the potatoes had been unloaded into warehouses at the transit point. In the absence of such unloading the transit privileges were not applicable and the local rate only was applicable.

In another instance, violations of a carrier's so-called stop-off tariff were discovered. Three individuals operating as a partnership were indicted for this offense, and upon pleas of guilty each was fined \$5,000 and costs. The tariff in question provides that cars containing shipments of scrap material may be stopped at an intermediate point to complete loading and that when a shipper avails himself of such privilege the published through rate from point of origin to final destination will apply, subject to the restriction that no portion of

the contents may be unloaded at the stop-off point. Where both unloading of a portion of the contents of the car and the loading therein of additional material occurs, and the application of the stop-off tariff thus is destroyed, the movements of the car to and from the stop-off point become separate and distinct, and the local rates to and from that point are applicable. The defendants, while representing that cars containing their shipments were stopped at the intermediate point only to complete loading, did in fact unload portions of the lading as well as load additional material into such cars. By such false representations, they obtained the application of through rates for the transportation from points of origin to final destinations, instead of paying the separate rates to and from the stop-off point, and thereby defeated the lawful charges by substantial amounts.

Another investigation conducted during the year produced evidence which led to a civil suit against a carrier for the penalties prescribed for violations of our service orders. The carrier, although having available double-deck cars for the transportation of livestock, nevertheless furnished to a large shipper single-deck cars in lieu of double-deck cars alleged to have been ordered by the shipper, on the pretext that double-deck cars were not available. This action was prohibited by our Service Order No. 71, which provides, among other things, that single-deck cars may be furnished in lieu of double-deck cars ordered only where the latter are not available. The suit was disposed of by defendant's confession of judgment in the sum of \$2,700.

In one instance, willful destruction of a railroad company's car-order records by one of its responsible employees was discovered. The obvious purpose of such destruction was to hinder an investigation of practices of the carrier and certain shippers in connection with the ordering and furnishing of cars. The records in question were of material importance to the investigation, and their destruction took place at one of the carrier's stations shortly after similar records had been examined at another station. An information against the carrier for this offense resulted in a plea of *nolo contendere* and the imposition of a fine of \$10,000.

For violations of the Interstate Commerce Act and related acts in all, 9 indictments were returned, and 27 informations and 1 complaint were filed. Sixty-two cases were concluded in the district courts and resulted in the imposition of fines totaling \$230,750, of which no part was suspended, and of several sentences of imprisonment.

Prosecutions instituted and concluded had their venue in the following States: California, Connecticut, Illinois, Iowa, Louisiana, Michigan, Minnesota, North Carolina, Tennessee, Texas, and Virginia.

A summary (a) of the indictments returned and complaints and informations filed in the United States district courts and (b) of cases concluded in those courts is set forth in appendix A.

BUREAU OF LAW

On October 31, 1941, there were pending in the courts 50 cases involving our orders or requirements. During the year, 41 cases were instituted and 50 were concluded, leaving 41 cases now pending. Of these, 9 are in the Supreme Court of the United States, 1 is in the Circuit Court of Appeals for the Second Circuit, and 31 are in the district courts of the United States.

Seventeen cases were submitted and decided in the Supreme Court, 2 were discontinued in the Circuit Court of Appeals for the Seventh Circuit, 1 was discontinued in the Circuit Court of Appeals for the Eighth Circuit, and 30 were concluded in the district courts. Summaries of all the foregoing cases are shown in appendix B.

The cases decided by the Supreme Court were:

Purcell v. United States, 315 U. S. 381.

In *Confluence & O. R. Co. Abandonment*, 247 I. C. C. 399, we authorized the abandonment of a profitable line of railroad based upon the fact that continued operation would interfere with a flood control project instituted by the War Department. Practically all traffic handled on the line was coal from a single mine. Estimates of the railroad and the mine operator as to the average annual profit and as to the cost of relocation varied considerably, the operator contending, however, that it would furnish sufficient tonnage in the future to permit profitable operation. In allowing the abandonment we said:

We are not unmindful of the plight in which the coal company will be, when service on the line is terminated, but similar cases in varying degrees are to be found in most contested abandonment cases * * *. Our duty, however, lies not in determining the property rights of shippers who happen to be discommoded or forced out of business, but as stated in the previous report, to weigh the present and prospective need for the line, and the benefits accruing to the public therefrom, against the burdens, present or prospective, that might be imposed upon interstate commerce.

Thereafter, proceedings were instituted before a statutory court seeking to vacate the order of abandonment upon the grounds that (1) we were without jurisdiction to permit the abandonment of an admittedly profitable line of railroad solely for the purpose of facilitating the construction of a flood control project, and (2) assuming we had jurisdiction to authorize the abandonment, it must be predicated upon the relocation thereof by and at the expense of the Secretary of War as a part of the cost of constructing the flood control project.

The case was decided below adversely to the plaintiffs (41 Fed. Supp. 309) and was thereafter reviewed by the Supreme Court. Mr. Justice Black, speaking for a unanimous court, held that—

there was no evidence that the line had theretofore been a burden on the Baltimore and Ohio system * * * or that a predictable decline in the volume of traffic would make it one in the future * * * undisturbed existence would be an impossibility in view of a flood control project * * * that unless a new connecting section is built, the sections of the line not to be inundated—a detached six mile segment above the dam, and a one mile segment connecting with the main line * * * would serve no practical purpose justifying continued operation.

After finding the above and referring to our finding that the revenues from the line would not be sufficient to bear the costs of maintaining and operating a relocated line, the Court sustained the court below in its conclusion that “an uneconomic outlay of funds would not be in the interests of transportation even though the money be derived from the national government.” It further held “that operation of the national railway system without waste was one of the purposes the Transportation Act of 1920 was intended to further.” This appears to be the first time the Supreme Court has considered the question involved in this case.

Interstate Commerce Commission v. Railway Labor Executives' Assn., 315 U. S. 373.

In this case, the Supreme Court held, contrary to our conclusion in Finance Docket No. 12643, *Pacific Electric Ry. Co. Abandonment*, 242 I. C. C. 9, that we had discretionary authority “to attach terms and conditions for the benefit of employees displaced by railroad abandonments.” The Court had held in *United States v. Lowden*, 308 U. S. 225 (1939), that, under section 5 (4) of the act relating to consolidations, we could impose conditions in order to protect adversely affected employees. In the instant case, the Court, even upon the assumption (though without deciding the point) that the language of the abandonment section (1 (18)) was narrower than that of the consolidation section, held that imposition of protective conditions was within our authority, and emphasized the point that “there is nothing in the act to indicate that the national interest in purely financial stability is to be determinative while the national interest in the stability of the labor supply available to the railroads is to be disregarded.” Consequently, that part of our report which denied consideration of the employees’ petition for lack of power was set aside and we were directed to consider the petition and take such action thereon as in our discretion is proper.

Board of Trade of Kansas City v. United States, 314 U. S. 534.

In this case, the Supreme Court sustained our orders of October 22, 1934 (205 I. C. C. 301); March 4, 1936 (215 I. C. C. 83); July 12,

1938 (229 I. C. C. 9); March 13, 1939 (231 I. C. C. 793), and July 24, 1939, Docket No. 17000, Part 7, Grain Case, insofar as such orders require or permit a basis of transit at the terminal markets different from that at competing interior points.

The plaintiffs were millers, elevator companies, boards of trade, grain exchanges, and other business interests in Kansas City, St. Louis, Omaha, St. Joseph, Atchison, Leavenworth, and Minneapolis, the great grain centers known in the trade as "primary markets." Their complaint was that our orders created an unlawful discrimination under the Interstate Commerce Act, sections 1 (5), 2, and 3 (1), by prohibiting the interruption of shipments of grain for the purpose of being stored, marketed, or processed—technically characterized as transit privileges—at these primary markets on the lower rates under which these privileges are available at competing interior points (i. e., grain centers other than primary markets).

The Court described the transit privilege as follows:

Since the transit privilege is at the core of this litigation, a brief exposition of its mechanics and manipulations becomes necessary. The privilege of transit enables grain to be shipped from point A to point B, there to be stored, marketed, or processed, and later reshipped to point C at a rate less than the combination of the separate rates from A to B and B to C. See *Transit Case*, 24 I. C. C. 340; *Atchison, T. & S. F. Ry. v. United States*, 279 U. S. 768, 777-79; Locklin, *Economics of Transportation* (1935) 122-23, 629-31.

The Court discussed the basis of the distinction made by us between primary markets and interior points, as developed in the exhaustive investigation. The Court pointed out the "narrow scope within which Congress has confined judicial participation in the rate-making process," and declined to set aside our findings. The Court concluded:

That the Commission itself was of divided mind in the successive stages of this controversy, emphasizes that the problem is enmeshed in difficult judgments of economic and transportation policy. Neither rule of thumb, nor formula, nor general principles provide a ready answer. We certainly have neither technical competence nor legal authority to pronounce upon the wisdom of the course taken by the Commission. It is not for us to tinker with so sensitive an organism as the grain rate structure, only a minor phase of which is caught in the record before us. If we were to grant the relief sought by the appellants, we would be restoring evils which the exclusive rate-break adjustment was designed to remove—evils which, for all we know, would be far more serious than those complained of by the appellants.

What we have said sufficiently disposes of the suggestion that the orders of the Commission must be stricken down because they wipe out natural competitive advantages of the primary markets. A rate structure found to involve serious discriminations among shippers, carriers, and transit points alike, is hardly a manifestation of nature beyond the Commission's power to repair.

Swift & Co. v. United States, 316 U. S. 216.

The Supreme Court affirmed the action of the specially constituted court dismissing suits to set aside our order in *Swift & Co. v. Alton*

R. Co., 238 I. C. C. 179. The proceeding before us was instituted by complaint of Swift & Company, and a subsidiary, against the railroads transporting livestock to the Union Stock Yards at Chicago, and involved so-called "direct shipments" which are shipments consigned directly to a packer at the stockyards, as distinguished from shipments consigned to commission merchants for sale. The Yard Company performed the service of unloading the stock into the unloading pens at tariff charges filed with us, which charges were collected from the railroads and absorbed by them in the line-haul rates. No charge, therefore, for the unloading service was made against shippers other than the line-haul rates. But the Yard Company, under tariffs filed with the Secretary of Agriculture pursuant to the Packers & Stock Yards Act, imposed yardage charges upon direct shipments as well as shipments consigned to commission merchants. It was against these yardage charges that the complaint of the packers was directed.

The packers sought reparation and asked us to establish rules and practices under which they might obtain delivery of direct shipments at suitable pens with right of egress to the streets without payment of yardage charges or any charge other than the line-haul rates. We dismissed the complaint upon findings that the delivery of stock consigned by the packers to themselves at the stockyards into the Yard Company's pens without affording free egress to the streets was not an unreasonable practice on the part of the railroads and that the yardage charges thereafter assessed by the Yard Company were not subject to our jurisdiction.

The Court held that the packers did not have an absolute legal right to take their direct shipments from the unloading pens free from yardage charges; that we did not err in considering the history of dealings between packers and Yard Company together with other facts bearing upon the reasonableness of the railroads' practices; and that we did not have jurisdiction to inquire into or prescribe the yardage charges since transportation terminated with delivery to the Yard Company. As to the latter point, the Court said:

The Union Stock Yards are a public utility. The decision of the Commission that the transportation ends with unloading leaves the stock in the hands of a public utility—the Union Stock Yards—for delivery to the consignee. Neither the Interstate Commerce Commission nor this Court can assume that the charges or practices of that utility are unfair or unreasonable, that it is charging for services that are not performed or facilities not used, or that it is imposing on consignees unnecessary services. Nor can the Commission or this Court assume that if unreasonable practices or charges are imposed by this utility the Secretary of Agriculture would fail to correct them upon an appropriate complaint in a proceeding to which the Yard Company is a party and may defend its practices for itself * * * Congress has established an appropriate forum in which any complaint of the packers against the real party in interest may be heard and any lawful grievances adjusted, and the Commission was quite right in refusing to trespass upon its jurisdiction.

Ready Truck Lines, Inc., v. United States, 314 U. S. 580.

Without awaiting oral argument, the Supreme Court on November 10, 1941, affirmed the action of the lower court sustaining our order of September 30, 1940, in Docket No. MC-28005, *Ready Truck Lines, Inc., Contract Carrier Application*, 26 M. C. C. 213, wherein we denied an application for a permit as a contract carrier by motor vehicle under section 209 (a) of the Motor Carrier Act. In support of its action, the Supreme Court cited section 209 (a), as well as its decision in the *United States v. Maher*, 307 U. S. 148, 153-154.

Northern Pac. Ry. Co. v. United States, 316 U. S. 346.

On May 25, 1942, the Supreme Court sustained our order of March 31, 1941, in Docket No. 27938, *Minneapolis Traffic Assn. v. Chicago & N. W. Ry. Co.*, 245 I. C. C. 11, wherein we found that the carrier's rules and practices governing the absorption of switching charges at Minneapolis on grain and grain products were unreasonable and, as to Minneapolis, unjustly discriminatory and unduly prejudicial. The Court held we had authority to make the order, that our findings were sufficient, and that our action was based upon relevant transportation conditions.

United States v. N. E. Rosenblum Truck Lines, Inc., 315 U. S. 50.

United States v. J. B. Margolies, embraced in 315 U. S. 50.

Lubetich v. United States, 315 U. S. 57.

In these cases the Supreme Court upheld orders of the Commission denying "grandfather" contract-carrier permits to motor carriers who on the critical dates transported overflow freight for common carriers by motor which latter companies carried most of such freight on their own vehicles. Our decisions were reported in *N. E. Rosenblum Truck Lines, Inc., Contract Carrier Application*, 24 M. C. C. 121, which was embraced with Margolies application, and Pete Lubetich Common Carrier Application, embraced with *Los Angeles-Seattle Motor Express, Inc., Common Carrier Application*, 24 M. C. C. 141, 147. We denied these applications because it was shown that the applicants, for a portion of the "grandfather" period, were "owner operators" carrying freight at so much per trip or for a percentage of the revenue received, for common carriers who solicited the shipments, issued the bills of lading, fixed and collected the freight, and, in short, dealt with the public for the transportation involved. Sometime after July 1, 1935, the applicants ceased to serve the common carriers and began to serve individual shippers directly. We denied the "grandfather" applications on the ground that the applicants had neither direction nor control over equipment used in performing this transportation. The Court sustained the denial, but on a different ground, to wit: That on the crucial date for the fixing of "grandfather" rights the applicant

carriers were serving common carriers and not the public directly; that a single common-carrier service was being performed for the public by the activities of the applicants and the common carriers they were serving; that to grant the applications would permit multiple "grandfather" rights for the same haul contrary to the purpose of the statute; and that it would be unreasonable to grant applicants "grandfather" rights which would permit them to commence serving the public in competition with the common carriers they had previously served. The result of these decisions is that "grandfather" rights cannot be obtained by contract carriers who served other carriers and not the public directly on the crucial dates for the determination of such rights. This interpretation was followed in *Calvin v. United States*, (D. C., E. D. Mo.) 44 Fed. Supp. 684.

United States v. Carolina Freight Carriers Corp., 315 U. S. 475.

In this case, the applicant sought a certificate under the "grandfather" clause as a common carrier of general commodities on irregular routes in and between practically all of the Atlantic seaboard States. In our report (24 M. C. C. 305), we limited the certificate to the territory and between those points where the carrier had theretofore rendered substantial service, eliminating territory only sporadically served. Applicant had carried a limited number of commodities north-bound and then held himself out to carry and did carry a large class of general commodities to make up loads on the south-bound trips. Over the objection of the applicant, our territorial limitation to those points where the carrier had rendered substantial service was sustained by the Supreme Court as a proper limit on an irregular-route common carrier. However, we had further limited the certificate to the carrying of those particular commodities which the applicant had previously carried in substantial quantity, and also limited the carrying of these permitted commodities to and from those points between which the carrier had previously carried them. The Court held that the correct principle to be applied was that the carrier should be allowed to continue to handle all of the items in the classes of commodities which it previously held itself out to the public to carry and representative items of which it did carry, and should not be limited to the specific items and to the point-to-point delivery of those items which it had actually carried in the past. Under the "grandfather" clauses the same tests of "bona fide operations" apply to irregular routes as to regular routes, and there is no basis for a distinction between the two as to the breadth of commodities which may be carried. In view of the fact that, in several of our opinions, we had indicated that we more strictly limit the commodities which could be carried by

an applicant for "grandfather" rights as a common carrier over an irregular route and those commodities which could be carried by an applicant over a regular route, the Court doubted whether the correct principles had been applied to this case. Consequently, it remanded the case to us for reconsideration on this point.

Howard Hall Co., Inc., v. United States, 315 U. S. 495.

In this case, wherein the lower court had sustained our order of July 10, 1940, in MC-42318, *Howard Hall Co., Inc., Common Carrier Application*, 24 M. C. C. 273, the issues involved were the same as those before the Supreme Court in the *Carolina Freight Carriers case*. Based upon that decision, the Supreme Court reversed the action of the lower court and remanded the proceedings to us for further consideration.

McArthur v. United States, 315 U. S. 787.

The Supreme Court in this case sustained our order of March 10, 1941, in Docket No. MC-75732, *McArthur Common Carrier Application*, 27 M. C. C. 812, wherein we found that applicant had failed to establish the right to a certificate as a common carrier by motor vehicle of household goods between Chicago, Ill., and other points in the United States over irregular routes.

Holding that the questions involved in the appeal were not substantial, the Supreme Court on March 30, 1942, without awaiting oral argument, dismissed the appeal and sustained our order, citing prior decisions of the Court in support of its action.

Alton R. Co. v. United States, 315 U. S. 15.

In this case, the Supreme Court sustained our order of September 19, 1938, in No. MC-48654, *Fleming Common Carrier Application*, 8 M. C. C. 469, wherein we found that applicant was entitled to a certificate to continue operation as a common carrier by motor vehicle in drive-away service of new automotive vehicles, finished and unfinished, and new automotive-vehicle chassis from Detroit, Mich., to all points in Alabama, Arkansas, California, Georgia, Kentucky, North Carolina, Oregon, South Carolina, Tennessee, Texas, and Washington, over irregular routes through the States of Idaho, Illinois, Indiana, Iowa, Kansas, Missouri, Ohio, Nebraska, Oklahoma, Utah, Virginia, and Wyoming, by reason of his having been engaged in such operation on June 1, 1935, and having continued such operation since that time.

The lower court had sustained our order except as to the State of Arkansas. The decision was affirmed by the Supreme Court. The Supreme Court first held that the railroads which compete with a motor carrier are "parties in interest" within the meaning of section 205 (b) of the Interstate Commerce Act, and entitled as such to

maintain an action to set aside an order granting a common-carrier "grandfather" certificate to a motor carrier. This decision followed a line of earlier decisions of the Court which held that a railroad was a proper party in interest to maintain an action to set aside orders granting carrier rights to a competing railroad. *Texas & P. Ry. Co. v. Gulf, C. & S. F. Ry. Co.*, 270 U. S. 266; *Western Pac. C. Ry. Co. v. Southern Pac. Co.*, 284 U. S. 47; and *Claiborne-Annapolis Ferry Co. v. United States*, 285 U. S. 382.

The railroads had attacked the order granting the "grandfather" certificate over irregular routes of new automobiles and chassis from Detroit, Mich., to any point in the designated States. It was their contention that we were bound to limit the "grandfather" rights to the serving of those specific points to which applicant had made deliveries during the period. The Court said that while "bona fide operation" within a specified "territory" includes "actual rather than potential or simulated service" it does not necessarily restrict future operations to the places, points, or areas already served. The Court held that if, as here, the carrier held itself out as being ready and willing to serve other points in a wide area, had served a representative number of points in such area, and the transportation service had such specialized characteristics as would make the trip to any specified locality infrequent or sporadic, we were well within our rights in including the general territory in our certificate and were not required to limit such certificate to the actual points served.

The Supreme Court upheld the granting of a "grandfather" certificate to an applicant who had operated in one of the States in which he sought such rights in violation of the laws of that State. The Court said that the violation does not preclude his obtaining a "grandfather" certificate, but merely bears upon whether his operations were bona fide and that our finding of bona fides was based on evidence.

Gregg Cartage & Storage Co. v. United States, 316 U. S. 74.

In this case, the Supreme Court upheld our order of November 14, 1938, affirmed by our order of December 12, 1939 (21 M. C. C. 17), holding that discontinuance of operations due to bankruptcy constituted an interruption of service over which applicant had control within the meaning of sections 206 (a) and 209 (a) of the Motor Carrier Act. We held that such interruption of service is not one beyond the carriers' control. The Supreme Court sustained this ruling, saying that, although there might be extenuating circumstances for this applicant in the cause of the bankruptcy, it was not necessary for us to go back of the fact of bankruptcy itself. The Court pointed out that presumably the bankrupt made its own business

decisions which resulted in its failure. Furthermore, the trustee in bankruptcy could have operated the property during the bankruptcy if he had chosen to do so.

Moore v. United States, 316 U. S. 642.

This was a suit to set aside our order of March 13, 1941, in Docket No. MC-17481, *Moore Common Carrier Application*, 28 M. C. C. 187, wherein we found that applicant was not entitled to a certificate as a common carrier or to a permit as a contract carrier by motor vehicle of any commodities between any points whatsoever. From a decision of a three-judge statutory court sustaining our order, an appeal to the Supreme Court was taken. That Court without awaiting oral argument affirmed the judgment of the lower court upon the authority of prior decisions.

Davidson Transfer & Storage Co. v. United States, 317 U. S. —.

In this case, the Supreme Court, on October 12, 1942, without awaiting oral argument, sustained our report and order of January 17, 1941 in No. MC-21576, wherein we authorized the Schultz Refrigerated Service to operate as a common carrier by motor vehicle between points in New Jersey, Pennsylvania, New York, Delaware, Maryland and the District of Columbia, over irregular routes (27 M. C. C. 807). From a decision of the district court sustaining our order, an appeal to the Supreme Court was taken. The appeal was dismissed and our order sustained in a *per curiam* opinion.

Stickle & Co. v. Interstate Commerce Commission, 317 U. S. —.

In this case the Supreme Court denied petition for writ of certiorari to review a decision of the Circuit Court of Appeals for the Tenth Circuit, reported in 128 Fed. (2d) 155, affirming the decision of the district court (41 Fed. Supp. 268) granting, upon our request, an injunction and, holding the petitioner to be a common carrier under section 203 (a) (14) of part II of the Interstate Commerce Act, and not a private carrier. By denying petition for writ of certiorari on October 12, 1942, the Supreme Court declined to review this holding of the lower court.

Other decisions of interest in connection with our work were:

New York, C. & St. L. R. Co. v. Frank, 314 U. S. 360.

The facts in this case show that the appellant, referred to as the Nickel Plate, was organized in 1923 as a consolidated corporation under the laws of 5 States, and that its articles of consolidation provided that it should succeed to all of the properties and franchises, contracts, and obligations owned by its constituent companies. Section 143 of the New York Railroad Law, under which the new corporation came into being, provided that "all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it." Among the

constituent companies was the Lake Erie & Western Railroad. In connection with a lease of certain properties from the Northern Ohio Railway, the Lake Erie & Western had guaranteed payment of principal and interest upon Northern Ohio's bonds secured by mortgage on the leased property. Because of the contention that the State law "attached" the obligations of this guaranty to the Nickel Plate, it was held liable upon defaulted coupons by a municipal court of the City of New York. The Nickel Plate's main defense was—

that approval by the Interstate Commerce Commission was necessary under § 20a of the Interstate Commerce Act before appellant legally could "assume" the obligation, and that such approval had not been given * * *.

The Supreme Court examined the history of the Nickel Plate consolidation "and financing to learn what administrative application has been made of the statutes in question to the debt structure of this particular appellant." The Court said:

Shortly after its consolidation the appellant asked the Interstate Commerce Commission to certify under § 1 of the Interstate Commerce Act that public convenience and necessity required the acquisition and operation by it of the railroad lines owned by the constituent companies. It also asked authority under § 20a to issue preferred and common capital stocks in the amounts fixed by the agreements and articles of consolidation. It did not, however, ask under § 5 of the Act for approval of its consolidation. Acquisition and Stock Issue by N. Y., C. & St. L. R., 79 I. C. C. 581.

The Court next referred to the changes made in the act by the Transportation Act of 1920:

By adding § 20a, the Transportation Act placed the issue of new securities and the assumption of obligations under the control of the Commission. The Act did not, however, provide for federal incorporation or for federal consolidation of carriers, but left the creation of new or consolidated corporations to state laws.

In *New York, C. & St. L. R. Acquisition and Stock Issue*, 79 I. C. C. 581, we had held that we were precluded from supervision of the consolidation under section 5 of the act, and in *Snyder v. New York, C. & St. L. R. Co.*, 278 U. S. 578 (1929), the Supreme Court approved that construction on the ground that the consolidation occurred when section 5 "had not as yet become applicable." In the instant case, the Court held that, similarly, in 79 I. C. C. 581, *supra*, we construed section 20 (a) of the act, and that it "deliberately deferred to a later day consideration of all debts." The decision of the lower court was affirmed on the ground that the administrative interpretation on which we had acted in the long course of dealing with Nickel Plate affairs should not be upset.

Crancer v. Lowden, 315 U. S. 631.

In this case, the Supreme Court had before it an action by the carrier to recover freight charges. There was involved the classification of "pipe thread protecting rings." The Court held that the

lower court did not err in admitting in evidence a copy of one of our opinions classifying "pipe thread protecting rings" for tariff purposes as "pipe fittings," rather than as scrap iron.

The Court further held that a motion, to stay proceedings pending determination of a second action before us, was not improperly denied where the only issue raised was whether rates on pipe fittings were unreasonable as applied to "pipe thread protecting rings."

Sonken-Galamba Corp. v. Atchison, T. & S. F. Ry. Co., 315 U. S. 822.

This was another classification case involving rates on scrap iron, having value for remelting purposes only. The Circuit Court of Appeals for the Eighth Circuit had held (124 Fed. (2d) 952) that the trial court's findings that the commodity involved, plates from dismantled oil tanks, was not entitled to be transported by the railroads at scrap iron and steel rates, were sustained by the evidence, including that of the shippers themselves, who reported the plates to be useful for other than remelting purposes. The Supreme Court denied petition for writ of certiorari, thus declining to disturb this holding of the lower court.

Bull S. S. Lines, Inc., v. Thompson, 315 U. S. 816.

This case was an action by the trustees of a railroad company against the Steamship Lines to recover undercharges upon carloads of freight. The circuit court of appeals had allowed the recovery, holding that the tariff on file with us was clear and unambiguous, that it had the force of statute binding upon carrier and shipper alike and must be strictly applied regardless of particular hardships (123 Fed. (2d) 943). On March 9, 1942, the Supreme Court denied petition for writ of certiorari declining to disturb this holding.

Peyton v. Railway Express Agency, Inc., 316 U. S. 350.

The facts in this case show that petitioner sued in the Federal court alleging that respondent had negligently failed to deliver to the addressee in California a package shipped from Waco, Tex., claiming damages in the sum of \$750,000. The express receipt which petitioner received upon delivering the package contained a \$50 valuation. The district court thereupon dismissed the complaint on the ground that the amount in controversy was less than the \$3,000 necessary to sustain the jurisdiction under section 24 (1) of the Judicial Code. The question presented was whether the district court had jurisdiction, irrespective of the amount involved, because it was a suit "arising under any law regulating commerce." If so, the jurisdictional amount became unimportant.

The Court's opinion summarized section 20 (11) of the Interstate Commerce Act, and called attention to the fact that that section provided "where a carrier by authority or direction of the Interstate Commerce Commission maintains rates dependent upon the value of the property declared in writing by the shipper, such declaration also

limits liability of the carrier for loss or damage to an amount not in excess of the declared value."

The Court referred to several of its prior decisions upholding the power of the receiving carrier to limit its liability to an agreed valuation, made to obtain the lower of two or more rates.

As the pleading of petitioner showed that the suit was one arising under a law of the United States, the Supreme Court concluded that the district court had jurisdiction.

Williams v. Jacksonville Terminal Co., 315 U. S. 386.

Pickett v. Union Terminal Co., embraced in 315 U. S. 386.

The question presented to the Supreme Court in these cases was whether a railroad company operating a terminal subject to the Railway Labor Act and the Fair Labor Standards Act of 1938 was required by those statutes, in the absence of a negotiated agreement respecting wages, to pay "red caps" a fixed minimum hourly wage irrespective of the tips from passengers received by the red caps, or whether an accounting and guarantee plan which left all tips with the red caps and assured them that each would receive at least the minimum wage, was valid.

The petitioners asserted that the Fair Labor Standards Act required railroads to pay the red caps the minimum wage without regard to their earnings from tips. In denying this, the Supreme Court found that the Fair Labor Standards Act was not intended to do away with tipping or to give the tipping employments an earnings preference over the nonservice vocations.

The difference between wages and tips was explained as follows:

Obviously "pay-wages" ordinarily means for the employer to hand over money or orders convertible into money at face. The absence of the word "tip" from the statutory extension of the ordinary meaning of wages makes it quite clear that not every gratuity given a worker by his employer's customer is a part of his wages. If Congress had had it in mind to include in wages all tips, the words were readily available for expressing the thought. Such a conclusion, however, does not foreclose a decision that in certain specific situations the so-called tips may be in reality the employee's compensation for his services and therefore wages.

Concerning a ruling of the Railroad Retirement Board, the Court said:

The Railroad Retirement Board has determined that all earnings of the red caps, accounted for to the carriers under the plan here in question are "money remuneration" and therefore "compensation" under the acts and not forbidden "tips." We can therefore examine the Fair Labor Standards Act with the safe assumption that the word "wages" has no fixed meaning either including or excluding gratuities.

As to the interpretation of the act, the Court felt that to interpret "pay-wages" as limited to money passing from the terminal to the red cap would let construction of an important statute turn on a

narrow technicality, since it could make no practical difference whether the red caps first turned in their tips and then received their minimum wage or were charged with the tips received up to the minimum wage per hour.

Stewart v. Southern Ry. Co., 315 U. S. 283.

This was an action to recover damages for the death of a railway employee in consequence of a violation of the Safety Appliance Act. The Court summarized the facts shown by the record as follows:

The record contains no direct evidence as to any defect in the coupler mechanisms of the cars involved in the accident. Each was equipped with an automatic coupler having a "pin lifter," whereby the pin in the coupler can be lifted so as to allow the jaw of the coupler to swing into the open position. The purpose of the device is to permit a switchman to open the coupler into the position where it will engage with the coupler of the other car upon impact without the operator going between the ends of the cars. The engineer, a witness for petitioner, testified that he did not see the intestate attempt to use the pin lifter, but did see him go between the cars. The foreman of the crew, also a witness for the petitioner, testified that when he arrived the jaws of both couplers were closed and decedent's arm had been crushed between them. He testified that after the accident he coupled the cars in question by going between the cars and opening the jaw of the coupler by hand. He stated that he tried to use the pin lifter on the car at the end of the train, which would be the one available on the side of the train on which he was working. He also testified that if the coupler was in working order it could be set by the use of the pin lifter. He was not asked, and did not state what effort he made to operate the pin lifter. Neither party asked him any further questions as to the working condition of the pin lifter or coupler.

Finding that on this record neither party was entitled to prevail, the Supreme Court remanded the case to the lower court for another trial, saying:

* * * If the issue as to the condition of the coupler mechanism was determinative, a new trial should have been ordered so that this issue might have been resolved in the light of a full examination of the foreman, the witness who could have given further testimony on the subject.

Abrams v. Scandrett, 314 U. S. 679.

In this case, the Supreme Court denied certiorari to review a decision of the Circuit Court of Appeals for the Seventh Circuit, 121 Fed. (2d) 371. It involved our determination of maximum allowances under section 77 (c) (12) of the Bankruptcy Act in the Milwaukee reorganization with respect to the claim of counsel for owners of certain bonds of the debtor. In our report and order of October 2, 1940, we found that the services rendered by the claimants "were of no benefit to the estate" and fixed the maximum limits of allowance therefor to be paid out of the debtor's estate as "nothing" (*Chicago, M., St. P. & P. R. Co. Reorganization*, 242 I. C. C. 133). The claimants then filed in the district court their

objections to our report and order. The district court overruled the objections, and the claimants appealed to the circuit court of appeals, which held that section 77 (c) (12) violates no constitutional right either in failing to provide judicial review of the action of the Commission or in delegating this function to us. This section contemplates our fixing of the maximum allowance for each attorney, and we can fix such maximum so low as to deny compensation out of the debtor's estate. The Court said:

The charge that the Commission, in denying appellants any relief, acted arbitrarily and capriciously, must be rejected in view of the fact found by the Commission that appellants' services were of no value to the estate. The evidence upon which this finding was made was not before the District Court.

Miles v. Illinois Central R. Co., 315 U. S. 698.

The railroad sued in a Tennessee State court to enjoin Mrs. Miles from further prosecuting a claim in a Missouri State court (she being the Tennessee administratrix of her husband, a resident of Tennessee) against the railroad for the death of her husband. The accident occurred in Tennessee. Mrs. Miles dismissed her original suit in Missouri and had an administrator appointed there, who promptly began a new action. The railroad sought an injunction because of the inconvenience and expense of taking Memphis employees to St. Louis and the resulting burden upon interstate commerce.

The Court reviewed the legislative history of the Federal Employers' Liability Act, and held that, since the cause of action and the privilege of vindicating rights under the act in State courts spring from Federal law, the right to sue in State courts of proper venue where their jurisdiction is adequate is of the same quality as the right to sue in Federal courts. Congress has permitted both the State and Federal suits, and its determination that the carriers must bear the incidental burden is a determination that the State courts may not treat the normal expense and inconvenience of trial in permitted places, such as the one selected here, as inequitable and unconscionable.

Duckworth v. Arkansas, 314 U. S. 390.

In this case, the Supreme Court upheld a conviction under Arkansas law of a motor carrier who was transporting a shipment of intoxicating liquor from Illinois to Mississippi without applying for or obtaining the permit for transporting liquor in the State as required by the law of Arkansas. The Court placed its decision, not on the limited ground that the Arkansas statute was supported by the twenty-first amendment nor on the ground that appellant admitted that he was transporting the liquor to Mississippi for illegal

use there, but on the ground that a State may place reasonable policing regulations on interstate shipments which if unregulated might affect the public interest adversely. The Court pointed out that this was particularly true of liquor which might be diverted within the State.

Federal Power Commission v. Natural Gas Pipeline Co., 315 U. S. 575.

This is one of the most significant decisions in the history of utility regulation. Although the Federal Power Commission had used a reproduction cost rate base for the purpose of its order in that case, it asked the Court to approve a departure from the fair value formula and to give benediction to the prudent investment rate base. The gist of the decision on this point is to be found in the following statement by the Chief Justice:

The Constitution does not bind rate-making bodies to the service of any single formula or combination of formulas. Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances. Once a fair hearing has been given, proper findings made and other statutory requirements satisfied, the courts cannot intervene in the absence of a clear showing that the limits of due process have been overstepped. If the Commission's order, as applied to the facts before it and viewed in its entirety, produces no arbitrary result our inquiry is at an end.

The opinion of the Court was unanimous, with Mr. Justice Black writing a concurring opinion, in which Mr. Justice Douglas and Mr. Justice Murphy joined. Mr. Justice Frankfurter also wrote a short concurring note. That utility regulatory bodies are now free to depart from what Mr. Justice Frankfurter referred to in his concurring opinion in *Driscoll v. Edison Light & Power Co.*, 307 U. S. 104, as the "moribund formula" of *Smyth v. Ames*, 169 U. S. 466, is clearly evident not only from what the Chief Justice wrote, but from the concurring opinion as well. Mr. Justice Black wrote:

Furthermore, since this case starts a new chapter in the regulation of utility rates, we think it important to indicate more explicitly than has been done the freedom which the Commission has both under the Constitution and under this new statute. While the opinion of the Court erases much which has been written in rate cases during the last half century, we think this is an appropriate occasion to lay the ghost of *Smyth v. Ames*, 169 U. S. 466, which has haunted utility regulation since 1898.

As we read the opinion of the Court, the Commission is now free from the compulsion of admitting evidence on reproduction cost or of giving any weight to that element of "fair value". The Commission may now adopt, if it chooses, prudent investment as a rate base—the base long advocated by Mr. Justice Brandeis. And for the reasons stated by Mr. Justice Brandeis, in the *Southwestern Bell Telephone* case, there could be no constitutional objection if the Commission adhered to that formula and rejected all others.

The Court also held that there is no constitutional requirement that going-concern value, even when an appropriate element to be included in a rate base, must be separately stated and appraised as such. The lower court (*Natural Gas Pipeline Co. of America v. Federal Power Commission*, 120 Fed. (2d) 625) had held the rate base to be erroneous because it failed to include a specific item of \$8,500,000 in the rate base for going-concern value. The Supreme Court reviewed the evidence and found that the items allowed in the rate base by the Federal Power Commission adequately covered going-concern value.

The Supreme Court, in the *Natural Gas Pipeline case*, clearly approved the principles governing the deduction of the depreciation reserve where it has been built up by reasonable annual charges for depreciation or the deduction of the reserve requirement where that condition has not been met. The Commission there had used the sinking-fund method of calculating the depreciation allowance in its decision. There is implicit in this formula the fact that the investor receives a return only upon the unamortized balance of his investment. The Court pointed out that:

Capital investment loss at the end of the life of a business can only be avoided by restoration of the investment from earnings, and it is avoidable so far as is humanly possible only by an appropriate charge of amortization to earnings as they accrue * * * The companies are not deprived of property by a requirement that they credit in the amortization account so much of the earnings received during the prior period as are appropriately allocable to it for amortization. Only by that method is it possible to determine the amount of earnings which may justly be required for amortization during the remaining life of the business.

In the *Natural Gas Pipeline case*, the Supreme Court also passed on several other matters. It squarely upheld the right of the Commission to enter an interim order in a rate proceeding after the company involved has had an opportunity to present its evidence, and also upheld the Commission's determination of 6.5 percent as a fair rate of return for a natural-gas company. It also upheld the basing of the annual depreciation allowance upon cost of property rather than upon reproduction cost. This was a distinct departure from *United Rys. & Electric Co. of Baltimore v. West*, 280 U. S. 234.

BUREAU OF LOCOMOTIVE INSPECTION

The work of this Bureau is shown in detail in the report of the director, published separately. Except as otherwise stated, the report here made is for the fiscal year ended June 30, 1942.

The following tables covering the fiscal years indicated are self-explanatory.

TABLE I.—*Reports and inspections—Steam locomotives*

	Year ended June 30—					
	1942	1941	1940	1939	1938	1937
Number of locomotives for which reports were filed.....	42,951	43,236	44,274	45,965	47,397	48,025
Number inspected.....	113,451	105,675	102,164	105,606	105,186	100,033
Number found defective.....	10,970	9,570	8,565	9,099	11,050	12,402
Percentage inspected found defective.....	10	9	8	9	11	12
Number ordered out of service.....	474	560	487	468	679	934
Number of defects found.....	44,928	37,691	32,677	33,490	42,214	49,746

TABLE II.—*Accidents and casualties caused by failure of some part of the steam locomotive, including boiler, or tender*

	Year ended June 30—					
	1942	1941	1940	1939	1938	1937
Number of accidents.....	222	153	164	152	208	263
Percent increase or decrease from previous year..	¹ 45.1	6.7	¹ 7.9	26.9	20.9	¹ 25.8
Number of persons killed.....	34	15	18	15	7	25
Percent increase or decrease from previous year..	¹ 126.7	16.7	¹ 20.0	¹ 114.3	72.0	¹ 52.2
Number of persons injured.....	227	182	225	164	216	283
Percent increase or decrease from previous year..	¹ 24.7	19.1	¹ 37.2	24.1	23.7	¹ 31.6

¹ Increase.

TABLE III.—*Accidents and casualties caused by failure of some part or appurtenance of the steam locomotive boiler*¹

	Year ended June 30—							
	1942	1941	1940	1939	1938	1937	1915	1912
Number of accidents.....	81	43	67	52	59	63	424	856
Number of persons killed.....	30	12	16	15	5	19	13	91
Number of persons injured.....	83	64	110	55	59	73	467	1,005

¹ The original act applied only to the locomotive boiler.

TABLE IV.—*Reports and inspections—Locomotives other than steam*

	Year ended June 30—					
	1942	1941	1940	1939	1938	1937
Number of locomotive units for which reports were filed.....	3,957	3,389	2,987	2,716	2,555	2,416
Number inspected.....	6,728	5,558	4,974	4,581	4,024	3,615
Number found defective.....	358	319	298	260	274	328
Percentage inspected found defective.....	5	6	6	6	7	9
Number ordered out of service.....	12	21	16	14	9	24
Total number of defects found.....	928	905	766	696	769	991

TABLE V.—*Accidents and casualties caused by failure of some part or appurtenance of locomotives other than steam*

	Year ended June 30—				
	1942	1941	1940	1939	1938
Number of accidents.....	9	11	7	5	4
Number of persons killed.....	9	11	7	5	4
Number of persons injured.....	9	11	7	5	4

INVESTIGATION OF ACCIDENTS AND GENERAL CONDITION OF LOCOMOTIVES

All accidents reported to the Bureau as required by the law and rules were carefully investigated and appropriate action taken to prevent recurrence as far as possible. Copies of reports of accident investigations were furnished to interested parties when requested and otherwise were used to bring about a diminution in the number of accidents.

STEAM LOCOMOTIVES

Two hundred and twenty-two accidents occurred in connection with steam locomotives, resulting in 34 deaths and 227 injuries. This represents an increase of 69 accidents, an increase of 19 in the number of persons killed, and an increase of 45 in the number of persons injured compared with the preceding year.

During the year, 10 percent of the steam locomotives inspected by our inspectors were found with defects or errors, in inspection, that should have been corrected before the locomotives were put into use; this represents an increase of 1 percent compared with the results obtained in the preceding year. There was a decrease of 15.3 percent in the number of locomotives ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe.

EXPLOSIONS AND OTHER BOILER ACCIDENTS

All of the 13 explosions that occurred in the fiscal year, in which 23 persons were killed and 18 injured, were caused by overheating of the crown sheets due to low water. There was an increase of 2 accidents, an increase of 12 persons killed, and a decrease of 11 persons injured from this cause as compared with the preceding year.

In three of these accidents, in which nine employees were killed and two employees and two passengers injured, the force of the explosions tore the boilers from the running gears and hurled the boilers and other parts for considerable distances from the points of the explosions. In another instance, where the boiler was torn from

the running gear and two employees were killed and one injured, the accident occurred in a tunnel, the boiler struck the roof of the tunnel and alighted on the front engine of the articulated running gear. In three other accidents, in which five employees were killed and four injured, the boilers remained attached to the running gears but the force of the explosions caused derailments. Three employees were killed and four employees injured in an accident that occurred while the locomotive was in the enginehouse; the rear end of the locomotive was lifted from the rails and displaced sidewise and parts of the enginehouse were wrecked. Four employees were killed and five employees injured in the remaining five accidents, in which the explosions were less violent than those described in the foregoing.

The serious results of boiler explosions are well known to railroad men and explosions have been materially reduced since the inception of the Boiler Inspection Act; however, there has been an increase in such accidents in the past 2 years with consequent increased loss of life and injuries and destruction of equipment.

Many locomotives are equipped with protective devices such as syphons, multiple drop or fusible plugs, and low-water alarms, all of which have no doubt prevented boiler explosions or minimized the severity thereof. Carriers which use devices of this character are making a distinct contribution to the conservation of human resources and equipment.

Boiler and appurtenance accidents other than explosions resulted in the death of 7 persons and injuries to 65 persons; this is an increase of 6 deaths and 30 injuries as compared with the preceding year.

EXTENSION OF TIME FOR REMOVAL OF FLUES

One thousand and seventy-nine applications were filed for extensions of time for removal of flues, as provided in rule 10. Our investigations disclosed that in 57 of these cases the condition of the locomotives was such that extensions could not properly be granted. Twenty-eight were in such condition that the full extensions requested could not be authorized, but extensions for shorter periods of time were allowed. Forty-six extensions were granted after defects disclosed by our investigations were required to be repaired. Twenty-seven applications were canceled for various reasons. Nine hundred and twenty-one applications were granted for the full period requested.

LOCOMOTIVES PROPELLED BY POWER OTHER THAN STEAM

There was a decrease of two in the number of accidents occurring in connection with locomotives other than steam and a decrease of two in the number of persons injured as compared with the preceding year. No deaths occurred in either year.

During the year, 5 percent of the locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use; this represents a decrease of 1 percent compared with the results obtained in the preceding year. There was a decrease of nine in the number of locomotives ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe.

SPECIFICATION CARDS AND ALTERATION REPORTS

Under rule 54 of the Rules and Instructions for Inspection and Testing of Steam Locomotives, 312 specification cards and 8,241 alteration reports were filed, checked, and analyzed. These reports are necessary in order to determine whether or not the boilers represented were so constructed or repaired as to render safe and proper service and whether the stresses were within the allowed limits. Corrective measures were taken with respect to numerous discrepancies found.

Under rules 328 and 329 of the Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam, 666 specifications and 316 alteration reports were filed for locomotive units and 99 specifications and 111 alteration reports were filed for boilers mounted on locomotives other than steam. These were checked and analyzed, and corrective measures taken with respect to discrepancies found.

LEGAL

One case of violation of the rules and instructions for inspection and testing of steam locomotives and tenders and their appurtenances, comprising 17 counts, was pending in the district court at the beginning of the year. This case was dismissed upon compliance with the provisions by the carrier and agreement to avoid such violations in the future.

SPECIAL WORK

In response to requests from military and naval authorities and other Government agencies directly engaged in the war effort, inspections of various locomotives and work equipment were made to determine the condition and suitability for the respective uses, and cooperative assistance was rendered in other respects. These locomotives are being generally maintained to the standards prescribed by the locomotive inspection law and rules governing the condition of locomotives used on the lines of common carriers, and inspections are currently made by our inspectors.

APPEALS

No formal appeal by any carrier was taken from the decisions of any inspector during the year.

BUREAU OF MOTOR CARRIERS

With the advent of war, motor carriers have found themselves pinched between critical rubber and equipment shortages, on the one hand, and the growing weight of the emergency transportation burden, on the other. This grave situation has spotlighted literally dozens of problems. Strict economy of operation; conservation far beyond previous standards; maintenance of schedules and necessary expedited service despite enforced reduction in speed; full and efficient utilization of vehicle capacity, including return loads; transportation of workers formerly driving their own cars; service to newly developed plants, camps, and airfields; and prevention of terminal congestion are of especial concern. It is in assisting carriers to cope with these and many other difficulties that we have expended a good part of our energies during the year.

Regulatory and enforcement work have not been slighted, however, as it is our earnest belief that the war effort, and conservation in particular, can best be served by maintaining intact the established carriers, as augmented by necessary additional carriers operating under authority limited to the duration of the emergency. In urgent cases, such temporary authority can be issued almost immediately upon the filing of an application. More than 3,800 applications for temporary authority were acted upon during the year.

An instance of conservation of equipment and manpower, combined with speeding up of transportation, is the grant of authority to a number of motor carriers to transport war materials in bond between points in the United States, principally Buffalo, N. Y., and Detroit, Mich., through Canada. Motor carriers operating between these points over United States highways skirting Lake Erie carry large amounts of essential war goods. In the past they have not been permitted to use the Canadian route which is 97 miles shorter between Buffalo and Detroit and as much as 243 miles shorter between other points. As a result of representations by the Department of State, the Dominion Government has permitted transportation in bond of war materials through the Province of Ontario during the war, and the Province of Ontario has issued necessary authority to use its highways to all carriers authorized by us to perform such transportation. A number of motor carriers have complied with the requirements and instituted service over the short routes.

Safety matters, centering on conservation through accident prevention, have continued to receive our thoughtful attention. We have given special attention to the great increase in the transportation of munitions and other explosives and dangerous articles by highway. General bulletins have been issued, and personal contact has been made by the staff of our Section of Safety with carriers engaged in transporting dangerous explosives and those newly authorized to do so in an effort to impress upon them the imperative necessity for the exercise of a high degree of caution. Likewise, consultations have been held with Army personnel and with State police and fire officials. During the year, we condensed and made minor changes in the regulations governing such transportation.

Cooperation with the War and Navy Departments, the Office of Defense Transportation, and the various other Government agencies whose duties touch on transportation by motor vehicle has taken much of the time of this Bureau. The military and naval services have made extended use of our facilities, especially those in the field, to check on available carriers and to secure all possible expedition of important shipments. Our offices and employees have been made available to the Office of Defense Transportation and have completed numerous tasks for that agency, including several surveys and statistical studies, and reports on individual carriers and groups. A heavy portion of this work has fallen on the members of our field staff, who, in addition to their regular duties, are acting as local allocation officers in the apportioning of new motor vehicles. Our Section of Traffic is furnishing to the Office of Price Administration continuing information as to competitive rates, rate levels, and similar matters, in connection with maintenance by that office of ceilings on the charges of contract carriers.

The services of many employees of this Bureau have been lost by resignations, transfer, or by entry into the armed forces.

IMPORTANT DECISIONS

A number of questions involving the construction and interpretation of part II have been determined during the year.

In *Rocky Mt. Lines, Inc.—Elimination of Participation*, 31 M. C. C. 320, division 2 found that the proposal of certain motor-carrier tariff publishing bureaus to cancel the participation of one of their common-carrier members in all joint rates maintained by the bureaus did not have the effect of closing the through routes of which such member's line formed a part. This being so, the burden of proof was found to be upon the bureaus to show that the resulting combination rates would be just and reasonable.

In *Railway Exp. Agency, Inc., Extension—Bristol, R. I.*, 31 M. C. C. 385, division 5 found that applicant's transportation of air express shipments by motor vehicle between two points 15 miles apart constituted a line-haul operation and therefore could not be considered to be "incidental to transportation by aircraft" within the meaning of the exemption provisions of section 203 (b) (7a).

In *Craig Contract Carrier Application*, 31 M. C. C. 705, we reconsidered at length the distinctions between common and contract carriers by motor vehicle and concluded that the services of the latter must involve some form of specialization, either with respect to the physical services rendered or in respect to the number of shippers served. In *Whitney Contract Carrier Application*, 32 M. C. C. 431, and *Doyle Transfer Co., Inc., Contract Carrier Application*, 32 M. C. C. 234, the principles of the *Craig case* were further discussed, somewhat amplified, and applied.

In *Planters Nut & Chocolate Co. v. American Transfer Co.*, 31 M. C. C. 719, on a complaint based upon the refusal of several common carriers to interchange interstate traffic with certain connecting common carriers under existing through routes and joint rates, which latter carriers had been placed on a labor union's "unfair list," we held that (1) labor difficulties arising in connection with the performance of such common-carrier duties cannot be permitted to be used as a valid excuse for the carriers to discontinue rendering to the public the service which they are obliged to perform and to which the public is entitled; (2) defendants cannot escape their common-carrier obligations by asserting that the violations complained of are caused by their employees; and (3) common carriers by motor vehicle are obligated to accept and transport all freight offered to them in accordance with the provisions of their tariffs.

In *Owsley Common Carrier Application*, 31 M. C. C. 778, division 5 found (1) that race horses and show horses do not come under the classification of "ordinary livestock" as used in the exemption provision of section 203 (b) (6); (2) that it is not necessary to obtain specific authority to transport attendants in connection with the transportation of race horses and that they may be transported free, although it is necessary to obtain specific authority to transport their personal belongings; and (3) that authority is required for the transportation of incidental supplies and equipment even though the transportation of the property to which they are related is authorized.

In *Hausman Steel Co. v. Seaboard Freight Lines, Inc.*, 32 M. C. C. 31, division 5 held that we have the power under part II to consider and make findings with respect to issues relating to the misrouting of shipments.

On reconsideration in *Witkind Contract Carrier Application*, 32 M. C. C. 60, we considered the quality of proof necessary to support a "grandfather" clause application, under section 206 (a) for an operating right, and declared that submission of abstracts of shipments transported in the past did not relieve the offering party from the necessity of producing the original records for inspection.

In *Jack Cole Co., Inc., Common Carrier Application*, 32 M. C. C. 199, division 5 found that a motor carrier authorized to perform only an irregular-route radial service may not through the fiction of an interchange with itself at its base point, or otherwise, lawfully perform service between any two points in its radial area over routes through the base point or points as a gateway.

In *United Moving & Storage, Inc., Extension of Operations*, 32 M. C. C. 359, we recognized that the character of the household goods moving business is such that it is difficult, in connection with applications for authority to institute new operations, to obtain the testimony of prospective shippers with respect to the need for the proposed service or of persons who have been inconvenienced in the past by a lack of adequate service, and pointed out that as a general rule we have been much less exacting with respect to evidence we deem necessary to prove that public convenience and necessity require operations as motor carriers of household goods than in similar cases involving transportation of general freight.

In *Petroleum Products, Wyoming Points to Missoula, Mont.*, 32 M. C. C. 453, division 2 found (1) that while section 216 (g) specifically places upon the respondent in investigation and suspension proceedings the burden of proof to show that any changed rate is just and reasonable, no such burden of proof, in terms, is placed upon the respondent in connection with a proposed initial rate; (2) that there can be only one legal minimum rate or charge of a motor contract carrier in effect on the same traffic moving between the same points at any given time; and (3) that where conflicting minimum rates have been filed with us at different times by the same motor contract carrier, the decisions with respect to common-carrier rates are not controlling, and the rates in the latest published schedule are the legal rates.

In *Roethlisberger Transfer Co. Ext.—Frankenmuth, Mich.*, 32 M. C. C. 709, division 5 held (1) that the fact that a movement in interstate commerce may be performed partly by motor common carriage and partly by private carriage does not change its interstate character, and (2) that a restriction to movements in trailers owned by the shipper would be inconsistent with an applicant's undertaking and duty as a common carrier to serve the public without discrimination.

In *Rock Port, L. & N. Ry. Co. Exemption Application*, 33 M. C. C. 315, division 5 denied the request of applicant, a carrier by railroad wholly within Missouri, for exemption under section 204 (a) (4a) where its motor-vehicle operations were exempt from State regulation, because the requested exemption would result in the absence of any kind of regulation, thereby leaving interstate motor-vehicle operations unprotected by proper insurance, not subject to adequate safety regulations (particularly in the case of its passenger operations), and not subject to any rate regulation, especially since practically all the traffic would be moved under joint rates with rail carriers subject to part I.

In *Slocum Exemption Application*, 33 M. C. C. 363, on reconsideration, in denying an application for exemption under section 204 (a) (4a), we found that the nature and character of an applicant's interstate operations rather than their volume are largely determinative of its rights to a certificate of exemption, and that it is incompatible with effective regulation under part II and in the effectuation of the national transportation policy that some interstate motor carriers should be regulated by the State, or perhaps left unregulated, while others engaged side by side in the same general character of transportation and between the same points should be subject to regulation by us.

In *Smith Brothers Revocation of Certificate*, 33 M. C. C. 465, we considered the effect of a cessation of operations on a carrier's certificate and found that, in view of section 212 (a), the certificate did not automatically lapse without further proceedings by us, notwithstanding a provision in the certificate that it should remain in effect "for such period as the said carrier shall continue to perform the services * * * authorized."

In *M. K. & C. Truck Lines Extension—St. Louis Commercial Zone*, 33 M. C. C. 749, division 5 concluded that our action in defining a zone under section 203 (b) (8) does not automatically establish that zone as a terminal area within the meaning of section 202 (c) (2).

In *Farmers' Union Co-operative Elevator Co., of Spencer, Extension—South Dakota*, 34 M. C. C. 1, division 5 found that the exemption of section 203 (b) (5) (formerly section 203 (b) (4b) of the Motor Carrier Act, 1935) relating to agricultural cooperative associations, does not apply to those associations otherwise within the exemption which have voluntarily assumed the status of common carriers and are operating in excess of the functions prescribed in section 15 (a) of the Agricultural Marketing Act.

In *Rugs and Matting from the East to Western Trunk Line Territory*, 34 M. C. C. 641, we affirmed the former finding of division 3, 31 M. C. C. 193, condemning, as unlawful, common-carrier

rates subject to minimum weights which exceed the loading capacity of the motor vehicles customarily used.

In *Stopping in Transit at Pittsburgh, Pa.*, 34 M. C. C. 653, division 2 held that a tariff rule providing for stopping in transit for partial loading or unloading of truckload shipments at a point or points en route between original point of shipment and the final destination under which the respondent proposed to accord multiple deliveries at locations within the corporate limits of the final destination was ambiguous and indefinite in violation of our tariff rules, but that such service is not unlawful if clearly and adequately authorized by tariff provision. The division found that the terms "point or points" and "final destination" must be taken to mean one of the points to which rates are published as an entirety rather than a street address or shipper's platform within such point.

In *Atlantic Greyhound Corp.—Pooling*, 37 M. C. C. 543, division 3 found that an agreement providing, among other things, for payment by a motorbus company of a commission of 10 percent on all tickets sold at stations of carriers agreeing to purchase a minority stock interest in such company, and for limitation on the number of schedules to be operated by such company, depending upon the average load factor, was not an arrangement for pooling or division of traffic, or of service, or of gross or net earnings, or of any portion thereof within the meaning of section 5 (1), and dismissed the application for authority under that section.

In *Columbia Terminals Co.—Notes*, 37 M. C. C. 569, in denying an application for authority to issue securities for the purchase of equipment, or for assumption of obligation in respect of securities to be issued by subsidiaries of the carrier for the purchase of equipment, which equipment was to be purchased for the purpose of leasing it to contractors on United States Government projects, division 4 stated that sections 20a and 214 are designed to prevent, among other things, expenditure of carrier funds for properties which are unnecessary to the legitimate operation of carrier business, so far as they would be obtained for such expenditure through issuance of securities for which our authority is now required.

In *Adkins—Purchase—Elliott and Ollis*, 38 M. C. C. 75, division 4 found that it had adequate power to consider and dispose of any matters bearing upon the public convenience and necessity which are directly related to and inseparable from the unification proposed under section 5 and authorized issuance to the acquiring carrier of a certificate of public convenience and necessity covering the operations acquired, which had been conducted by vendor under the exemption from the certificate requirements of the act contained in the second proviso of section 206 (a).

In *Cranberry Corp.—Control and Merger—ET&WNC Motor Transp.*, 38 M. C. C. 113, where the motor-carrier affiliate of the railroad was the larger of the two in traffic, revenue, and territory served, division 4 found that the reasons for the principles enunciated in *Pennsylvania Truck Lines, Inc.—Control—Barker Motor Freight, Inc.*, 1 M. C. C. 101 and 5 M. C. C. 9 and 49, were inapplicable to such a factual situation, that application of those principles to this case would stifle the natural growth of the motor carrier, and that the application should be approved without regard to those principles.

In *Wald Transfer & Storage Co. of Galveston, Tex.—Purchase—Wald Transfer & Storage Co.*, 38 M. C. C. 365, division 4 found that the proposal by vendee to purchase vendor's right to perform pick-up and delivery service for rail carriers at Galveston, Tex., presented a matter within the scope of section 5 (2) (a), in view of the provision of section 202 (c) (2) that such transportation "shall be regulated in the same manner as the transportation by railroad * * * to which such services are incidental," but denied the application on the ground that the proposed severance of the right to perform such pick-up and delivery service at that point from the line-haul operating rights of vendor would not be consistent with the public interest.

In *Burlington Transp. Co.—Purchase—Hartell Truck Lines, Inc.*, 38 M. C. C. 497, division 4 held that the provision of section 5 (2) (b) requiring that a public hearing be held in all cases where carriers by railroad are involved refers to transactions proposed under section 5 (2) (a) and not to applications filed under section 210a (b) for temporary authority to operate the properties sought to be acquired in the section 5 proceeding.

SECTION OF ACCOUNTS

This section is engaged principally in administering, and securing compliance with, our accounting regulations and our reporting requirements, including the formulating of accounting systems and preparation of report forms. At present these regulations are in effect only for class I motor carriers, which are defined as those having average gross operating revenues (including interstate and intrastate) of \$100,000 or more annually from motor-carrier operations. On October 31, 1942, there were 1,443 class I motor carriers of property and 207 class I motor carriers of passengers, as compared with 1,301 such carriers of property and 205 such carriers of passengers on the same date last year. Class I motor carriers are required to submit periodic reports which are given an office examination, supplemented by an examination of the carrier's books and records by

our field accountants. These field examinations afford an opportunity for checking compliance with our accounting and report requirements, as well as instructing carriers in the proper accounting procedure.

During the year, this section completed the office examination of 1,428 annual reports for 1941, and field accountants have examined carrier's records in 968 of these. In addition, the handling of 19 annual reports remaining from 1940 was completed.

The following shows the number of monthly and quarterly reports received and examined for errors in preparation or accounting practices during the year:

	Received	Examined
Monthly reports, passenger.....	2,364	2,304
Quarterly reports, passenger.....	752	840
Quarterly reports, property.....	5,360	5,423

The section handled 334 accounting cases in connection with mergers, consolidations, and acquisitions of control under section 5, and 1,480 financial and income statements filed with applications for transfer of rights under section 212. In addition, financial and operating statements filed with applications to self-insure were analyzed, and in some instances reports were prepared for our consideration in determining qualifications of the applicants.

Investigations of carriers' books of accounts and records were made and reports were submitted in connection with rate, finance, and enforcement matters.

Class II and class III motor carriers for the past 3 years have been requested to file reports of revenues, expenses, and other data relating to their operations. Reports for 1940, numbering 16,800, have been reviewed and recorded, and a statistical study made of the data reported. Such reports for 1941, numbering 11,321, have been received and are being given similar handling. The information thus obtained has been of considerable benefit to us in our motor-carrier work, and the findings have been used in studies by other Government agencies in connection with present emergency conditions.

We have not yet prescribed uniform systems of accounts for class II and class III carriers, although systems adapted to their operations are under consideration. Adoption of uniform accounting regulations for all carriers is desirable in the administration of the act. However, many of these carriers have only meager organizations, and our present accounting staff is insufficient to undertake the educational work necessary to obtain effective compliance.

SECTION OF CERTIFICATES

As our annual report for 1937 described in detail the duties of the Section of Certificates, this report will be confined to a summary of the status of the various applications handled by the section.

Applications for certificates, permits, licenses, registration, and exemption filed since enactment of part II of the Interstate Commerce Act

	Cumulative to Oct. 31, 1941	Nov. 1, 1941, to Oct. 31, 1942	Cumulative to Oct. 31, 1942
"Grandfather" applications filed on and prior to Feb. 12, 1936.....	83,021	1,565	83,586
"Grandfather" applications filed after Feb. 12, 1936.....	6,601	73	6,674
Applications for authority to institute new operations.....	16,540	2,691	19,231
Applications to register State certificates filed after Feb. 12, 1936.....	1,908	476	2,384
Applications for temporary authority under section 210a (a).....	2,447	4,094	6,541
Applications for exemption of one-State operations under section 204a (4a).....	37	27	64
Total applications received.....	110,554	7,926	118,480
Applications approved.....	28,510	3,347	31,857
Applications denied, dismissed, or withdrawn.....	72,905	8,076	80,981
Applications pending.....	9,139	-3,497	2,542
Total.....	110,554	7,926	118,480

¹ The increase in the number of "grandfather" filings results from the transfer of portions of operating rights or the separation of applications involving more than one type of operation.

² Of the 5,642 applications pending, 1,611 are filed under the "grandfather" clauses of the act, sections 206 (a) and 209 (a), by motor carriers who claim to have been in bona fide operation on June 1, 1935, as common carriers, or on July 1, 1935, as contract carriers. The carriers filing such applications are authorized by the act to continue operations pending determination of their applications.

Identification plates.—During the year, 40,641 identification plates were issued, bringing the total plates issued to 371,633. To date a total of \$92,908.25 has been transmitted to the Treasury of the United States in payment therefor. Plates voided or surrendered after cancelation or transfer of operating authorities, or reported lost or destroyed, total 85,432, leaving outstanding 286,201 valid identification plates in the hands of 22,723 carriers.

Applications for transfer of operating rights.—There were submitted, during the year, 1,458 applications for substitution, transfer, or lease under section 212. During the year, 1,440 such applications have been granted and 114 dismissed or denied. To date, 11,394 such applications have been submitted, of which 10,260 have been granted and 1,034 dismissed or denied. One hundred are now under consideration.

Temporary authority under section 210a (a).—Of the 4,094 applications filed for emergency authority under section 210a (a) during the past year, 2,838 were granted upon a showing that there was an immediate and urgent need for such service and that there was no carrier within the territory capable of meeting such need. However, the issuance of final grant orders upon 366 such applications awaits the filing of appropriate rate publications and evidence of insurance. Nine hundred seventy-five did not disclose such facts and were de-

nied. To date, 6,541 applications have been filed, of which 4,117 have been approved, 1,998 denied, and 426 are under consideration. The very substantial increase in the number of applications for emergency authority is due primarily to war conditions. The Second War Powers Act, 1942, amended section 210a (a) of the Interstate Commerce Act so as to remove the 180-day limitation on grants of temporary authority. This has made it unnecessary for applications to be filed for permanent authority in relation to transportation requirements by war activities and has resulted in a noticeable decrease in the number of applications for permanent authority.

Authority for temporary suspension of operations.—Another of the provisions of the Second War Powers Act, 1942, was the addition of subsection (f) to section 204, authorizing us to modify, change, suspend, or waive any order, certificate, permit, license, rule, or regulation issued under part II of the Interstate Commerce Act. Within the past few months, we have received from motor carriers 658 requests for permission to suspend all or portions of their authorized operations. Most of these requests resulted from calls to military duty, changes in industrial production, or orders of governmental war agencies limiting their fields of activity.

SECTION OF COMPLAINTS

The following indicates the condition of the docket of formal complaints, general investigations, and investigation and suspension proceedings for the year ending October 31, 1942 (corresponding figures for the preceding year are also given):

	1941	1942		1941	1942
Formal complaints filed.....	36	20	Proceedings disposed of, including subnumbers, reopened cases, and cases instituted in the preceding year.....	593	537
Subnumbers.....	26	1	Reopened.....	18	12
Investigations instituted.....	58	19	Number of cases pending.....	453	241
Investigation and suspension cases instituted.....	540	273			
Hearings.....	436	201			
Proceedings under submission at end of period.....	99	89			

During the year, we decided 23 complaint and answer cases and 142 investigation and suspension proceedings, including in each instance cases left from the preceding year. Twenty-three complaint and answer and 287 investigation and suspension cases were dismissed at the request of the parties. We decided 31 and dismissed 31 of the investigations instituted by us, including some which had been instituted in the prior year.

The following indicates the condition of the docket of application matters for the year ending October 31, 1942 (corresponding figures for the year ending October 31, 1941, are also given):

	1941	1942
<i>Hearing procedure docket</i>		
Hearings.....	3,505	3,310
Recommended orders and reports by joint boards or examiners.....	3,334	3,286
Applications decided by effective recommended orders.....	2,224	2,310
Applications decided by the Commission.....	1,787	2,022
Application matters reopened after decision.....	350	366
Applications in section pending hearing or rehearing.....	1,602	336
Application matters heard but pending in various stages short of submission.....	868	531
Applications heard and submitted to the Commission for final determination but not decided.....	1,640	919
Number of applications pending.....	4,110	1,786
<i>No-hearing procedure docket</i>		
Recommended orders and reports by joint boards or examiners.....	593	786
Applications decided by effective recommended orders.....	501	753
Applications decided by the Commission.....	22	13
Application matters reopened after decision.....	51	16
Application matters in section for preparation of recommended orders and reports by joint boards or examiners.....	31	69
Application matters in which recommended orders and reports have been issued but in various stages short of submission.....	158	36
Application matters submitted to the Commission for determination but not yet decided.....	6	4
Number of applications pending.....	195	109

Nine hundred sixty-two petitions were handled in application matters formally heard.

SECTION OF FINANCE

The duties of this section in connection with (a) consolidations, mergers, purchases, leases, contracts to operate, and acquisitions of control of motor carriers under section 5, (b) temporary authority under section 210a (b), (c) issuance of securities and assumption of obligation or liability by such carriers under section 214, and (d) corporate reorganizations of motor carriers under the Bankruptcy Act, have been referred to in previous annual reports. As a result of the Transportation Act of 1940, it became lawful for common carriers by motor vehicle to enter into contracts, agreements, or combinations with other such common carriers for the pooling or division of traffic, or of service, or of gross or net earnings, or of any portion thereof. These matters are likewise handled by this section.

A summary of the status of the work of the section follows:

	Filed			Pending on Oct. 31, 1942
	Cumulative to Oct. 31, 1941	Nov. 1, 1941, to Oct. 31, 1942	Cumulative to Oct. 31, 1942	
Formal cases:				
Initial disposition:				
Applications under section 5 (and former section 213) for approval of unifications.....	1,523	295	1,818	148
Applications under section 5 for approval of pooling.....	1	4	5	4
Applications under section 214 for authority to issue securities or assume obligations or liability.....	175	17	192	8
Reopened.....	26	8	34	7
Temporary authority; petitions under section 210a (b) seeking temporary authority in unification proceedings.....	414	154	568	8
Petitions—general.....	581	224	805	11
Total.....	2,720	702	3,422	186

During the year, 742 matters of the types referred to above were disposed of, representing an increase of 246, or 49 percent, over the annual average for the preceding 5 years. There has been a substantial increase in the number of general petitions, and of applications for unification, and those for temporary authority. Applications for temporary authority showed an increase of 19 percent, and general petitions an increase of 74 percent over the respective totals for the preceding year.

With the passing of time, motor-carrier finance cases have become relatively larger in size and more complicated. During the current year the largest case filed, No. MC-F-1775, Allied Van Lines, Inc.—Pooling, involved 366 carriers seeking authority to pool motor-carrier traffic, service, and gross and net earnings from the transportation of household goods. Previously the largest case received involved 57 companies.

Owing to the existing emergency, there is need for prompt action in the disposition of matters handled by this section. Among the reasons for expedition are the rapidly changing economic picture, the inability of many present owners to adjust their operations to meet the requirements of the war effort, disposition of operations brought about by entry of the owner into the armed forces, and the orders of Government agencies looking to conservation of tires, equipment, and motor fuel.

In our last report, mention was made of an abbreviated procedure which had then only recently been made effective with respect to cases susceptible of handling without a formal hearing. This procedure has materially expedited disposition of those cases adapted to its use. During the current year, 115 applications were thus disposed of without a public hearing. With the cooperation of the parties in interest, every effort is being made to increase the number of cases so handled, and to assign for formal hearing only such matters as the existing circumstances make necessary.

SECTION OF INSURANCE

The functions of this section and the scope of our rules and regulations under section 211 (c) and section 215 relating to security for the protection of the public have been described in previous annual reports. At this time, surety bonds, certificates of insurance, or qualifications as self-insurers are on file for some 25,000 motor carriers covering their liability to the public for bodily injuries to or the death of any persons, or loss of or damage to property of others, resulting from the negligent operation, maintenance, or use of motor vehicles. In addition, some 20,000 motor common carriers of property have on file one of the afore-mentioned types of security

covering their liability to compensate shippers or consignees for the loss of or damage to cargo.

During the past year, the section has been called upon to examine and approve for filing 64,338 certificates of insurance and 1,710 surety bonds. It has also received and handled 14,046 notices of cancelation of insurance policies or surety bonds and 2,619 rescinders of notices of cancelation and notices reinstating previously canceled policies or bonds. In addition, it has handled 9 applications for authority to self-insure, and has examined and analyzed 111 financial statements filed by self-insurers and by corporate sureties not authorized by the United States Treasury Department to execute surety bonds in favor of the United States of America.

In order to keep us informed as to the adequacy of the financial resources and general stability of insurance companies filing certificates of insurance with us, it has been necessary for this section to analyze, in the case of 140 companies, copies of annual statements and reports of examination on condition and affairs of such companies made by State authorities.

The major portion of the work of the section in obtaining compliance by motor carriers with the security provisions of the act is handled by correspondence, and, during the year, letters were sent to motor carriers, brokers, members of the public, and to insurance companies and their representatives.

SECTION OF LAW AND ENFORCEMENT

The duties of the law and enforcement branches of this section were described in detail in our annual reports for 1936 and 1937. In addition, there has been added to the work of the law branch the handling of informal complaints, of which 1,156 were received during the year. An endeavor is made, largely through correspondence, to assist shippers and carriers to reach an amicable settlement of controversies with respect to rates, loss and damage, or other matters. The law branch also maintains a briefing section which conducts legal research, and prepares general memoranda upon important questions of law, as well as briefs and memoranda of points and authorities for use in court cases. It also compiles and preserves data pertaining to the legislative history of Federal laws relating to motor carrier transportation.

The status of complaints and litigation during the year is as follows:

Number of complaints on hand Nov. 1, 1941.....	3, 126
Number of complaints received during period.....	1, 116
Number of complaints requiring attention during period.....	4, 242
Average filed per month.....	93

Number of complaints closed.....	2, 438
Average closed per month.....	203
Number of complaints pending.....	1, 805

Number of violations by type:

Operating without authority.....	734
Nonobservance of rates and charges on file.....	260
Unification without authority.....	6
Nonobservance of safety regulations.....	142
Insurance requirements.....	98
Accounting requirements.....	8
Miscellaneous.....	188

Total (including complaints charging more than one violation).....	1, 436
Investigations concluded and reviewed (including cases received prior to Nov. 1, 1941, but handled during the current year).....	2, 438
Under investigation by special agents or field staff, or awaiting investigation or other disposition.....	1, 805
Total.....	4,243

	Civil	Criminal	Total
Cases involving litigation, on hand at beginning of current year.....	26	167	193
Recommended for litigation.....	24	442	466
Court cases instituted.....	27	487	514
Court cases concluded.....	42	555	597
Cases awaiting institution.....	6	115	121

The foregoing figures present a summary of the work done by the enforcement branch. Of the 597 court cases concluded during the year, 555 involved statutory violations of a criminal nature and resulted in penalties totaling \$349,903. There was an acquittal in 1 case, and the Department of Justice moved dismissal of 15 cases for various reasons.

Appropriate decrees were entered in 29 of the 42 civil cases terminated during the year. Twelve civil cases were dismissed by the Government, and an injunction was denied in 1 case.

Complaints received during the year numbered only 1,116, as compared with 2,498 for the preceding year. The number of court cases instituted remained within 75 percent of last year's total despite additional war duties and loss of personnel. This sustained enforcement effort has likely played a considerable part in the decrease in complaints, though perhaps not so much as the figures indicate. We have found that, in times of great business activity, complaints by one carrier against another, comprising a major part of the normal total, fall off noticeably.

SECTION OF RESEARCH

During the year, this section has made investigation of the leasing of owner-operator equipment, of the financial status of class II and class III motor carriers of property, and of costs of motor-carrier operations. The study of the smaller carriers was made at the request of the Wage and Hour Division of the Department of Labor and was continued in certain respects for our purposes. The analyses of costs were based on such of the data obtained in connection with our investigation of the need for Federal regulation of the sizes and weights of motor vehicles (discussed elsewhere) as were not used in the preparation of our report on this subject.

The section has participated in the preparation of analyses for the Office of Defense Transportation and other war agencies and has given assistance to the Board of Investigation and Research. It also has worked on the Bureau's investigation of the practices of motor carriers of property in the division of charges on joint hauls and has cooperated with other sections of the Bureau, as on the analysis of accidents. Numerous miscellaneous inquiries for information about motor transportation have been answered. Many investigations desirable for the purposes of regulation could not be undertaken with the small staff available.

SECTION OF SAFETY

Members of this staff have maintained close contact with the War Department and other war agencies, particularly the Office of Defense Transportation to whom the services of certain personnel have been available for extended periods. Meetings have been arranged with insurance, safety engineering, and other carrier and technical groups, and staff members have participated in the committee work of some of these organizations. Lectures have been given in courses conducted by the Public Safety Institute of Purdue University and by the National Institute for Traffic Training at Yale University. These activities have covered not only the section's normal work of highway safety, but conservation problems arising from the emergency standards of Army field vehicles, accident-prevention programs in connection with civilian defense, and the like.

We have issued a notice calling upon motor carriers to comply with Army orders and local regulations with respect to "dim-out" or "blackout" requirements, and relieving carriers from compliance with the pertinent parts of our regulations under such conditions.

By appropriate order, we have amended part 4 of our motor-carrier safety regulations so as to increase the minimum reportable property damage from \$25 to \$100.

A further report on Brake Performance of Commercial Vehicles and Combinations, analyzing the effect of brake repair and maintenance on brake performance, was issued during the year. This report draws conclusions from the assembled data upon various points, including (1) extent of compliance and brake defects by vehicle type; (2) effect of fleet size on maintenance; (3) maintenance of leased vehicles; (4) effect of overloads; (5) importance of minor adjustments; (6) need of a better follow-up system in maintenance programs, and (7) relative ease of maintaining brake performance once brakes are placed in good condition. Recommendations also were made therein concerning maintenance programs for both small and large carriers.

During 1941, motor carriers reported 16,474 accidents, an increase of 26 percent over those reported in 1940. These accidents resulted in 1,367 fatalities, injuries to 12,883 persons, and property damage estimated at \$7,193,217. A considerable portion of the increase of accidents reported undoubtedly resulted from a substantial increase in the total vehicle miles traveled.

SECTION OF TRAFFIC

The functions of this section were described in our Fiftieth Annual Report.

In our previous reports, we have referred to the work of educating and assisting motor carriers in preparing definite and understandable tariffs. Owing to added duties and the loss of many specially trained employees, it has been necessary to curtail this work for the present. However, current rate publications generally show an improvement over those filed in previous years.

This section's activities have mounted with the rising volume of motor transportation. An increase of approximately 9 percent has been noted in the number of tariffs and schedules filed. There has been a material increase in applications for permission to file publications in a manner different from that required by the act or our regulations, especially by carriers granted temporary authority. In these latter cases, in order that service might be instituted promptly, it has been our practice to permit the establishment of new rates, fares, or charges on short notice, provided our informal investigation indicates the proposed rates, fares, or charges are not unlawful. Prompt handling also has been given requests from carriers for permission to make short-notice changes necessary to effect compliance with orders of the Office of Defense Transportation.

To further the conservation of transportation facilities and to expedite the movement of freight, we issued on June 8, of this year Emergency Order No. M-1, suspending all routing provisions of common carriers of property by motor vehicle and requiring such carriers to

disregard bill of lading routing instructions and to accept or divert or reroute shipments when necessary to comply with and to further the purposes of General Order O. D. T. No. 3 issued by the Office of Defense Transportation.

Section 409 of the newly enacted forwarder legislation provides for joint freight forwarder-motor carrier rates and charges during an adjustment period of 18 months. This section has been given the task of advising and assisting freight forwarders in the filing of appropriate publications. The work is going forward satisfactorily despite the pressure of other duties.

Common carriers of passengers and property have filed, during the course of the year, 79,783 tariff publications, including approximately 11,000 joint freight forwarder-motor carrier tariffs, and contract carriers of property have filed 2,482 schedules of minimum rates and charges. Of this number, 1,719 were rejected and returned as not in compliance with the provisions of sections 217 (a) and 218 (a) of the act or our regulations issued thereunder. The tariffs and schedules retained in our files have been made available for public inspection in our 16 district offices as well as in our Washington office. Under section 220 (a), copies of contracts of contract carriers are required to be filed with us, primarily for our confidential information. During the year, this section received and indexed 5,725 such copies of contracts.

Applications received seeking special permission to establish rates, fares, and charges on less than statutory notice or waiver of certain of our rules numbered 6,969. Of this number 5,923 specific orders were entered granting permission and 945 applications were denied. The remainder were disposed of otherwise. Powers of attorney and certificates of concurrence filed aggregate 22,080. Correspondence during the year relating to tariff and schedule construction with respect to regulations promulgated under sections 217 and 218 consisted of 25,557 letters received and 34,344 letters written. In addition, 4,301 rate memoranda were prepared for our own use and for the use of other branches of the Government and shippers. Under section 219, 19 applications seeking authority to use rates depending upon or varying with released or declared values were received. Of this total number, 13 were granted, 4 were withdrawn, and 2 are pending.

FIELD ORGANIZATION

Since our last report, 2 additional subordinate offices have been opened and 1 subordinate office has been consolidated with a district office, making a total of 80 field offices. Numerous changes in personnel have been made because of vacancies caused by entrance into military service and transfer to other Government agencies, but there has been

no appreciable change in the number of employees, excepting among those specifically assigned to prosecution work.

The usual duties performed by the field organization as reported in previous reports have been carried on. Some classes of this work have increased considerably in connection with the war effort. The principal activity of this kind is the investigation and reporting on applications for temporary operating authority to serve the armed forces or war production plants. The increased volume is reflected by the handling of 4,094 applications during the past fiscal year as compared with 1,203 during the year ending October 31, 1941. Also, the field staff has handled a large number of applications for suspension of operating authority due to discontinuance of service by carriers who are entering the military service or of service not essential under war conditions. Much time has been spent on obtaining compliance with our safety and maintenance requirements as a conservation measure in connection with the war effort.

From March 1942 to date of this report, the field organization has reviewed and reported on applications for the allocation of new commercial motor vehicles for the Office of Defense Transportation. On an average, this has consumed approximately 50 percent of their time. When gasoline rationing went into effect in the eastern seaboard States, our field organization reviewed and made recommendations on all applications of motor carriers subject to our jurisdiction.

Many other assignments have been handled by the field organization for other defense agencies, such as reporting on necessity for release of strategic materials-for construction of motortruck terminals, and on the eligibility of motor carriers to receive loans from the Reconstruction Finance Corporation. A monthly survey has been made for the Office of Defense Transportation to determine the adequacy or shortage of motor-vehicle equipment for private as well as for-hire carriers, and many special studies and recommendations have been made for that organization. Other surveys have been made to determine the adequacy of motor transportation service to defense plants and military establishments, and provision has been made for additional service when needed. Investigations have resulted in consolidation of service by motor carriers to relieve bottlenecks and eliminate wasteful transportation.

In carrying on the above duties, the field organization has conducted 452,304 interviews and has prepared 528,972 letters and reports.

BUREAU OF SAFETY

A more detailed report of this Bureau is published as a separate document.

Except as otherwise specified, the report here made is for the year ended June 30, 1942.

ACCIDENT STATISTICS

Casualties on steam railroads in connection with the operation of trains during the calendar years 1940 and 1941 are summarized as follows:

Class of persons	Number of persons killed		Number of persons injured	
	1940	1941	1940	1941
Trespassers.....	1,977	2,104	1,765	1,572
Employees.....	475	662	7,956	11,196
Passengers on trains.....	75	34	2,530	2,916
Travelers not on trains.....	5	5	60	81
Persons carried under contract.....	4	8	188	271
Other nontrespassers.....	1,908	2,070	5,059	5,395
Total.....	4,444	4,883	17,558	21,431

In addition, 203 persons were killed and 16,380 injured in nontrain accidents, in comparison with 168 killed and 12,032 injured in such accidents during the preceding calendar year.

Steam railroads carried 488,668,000 passengers 29,406,250,000 miles; there were 34 fatalities to passengers on trains, or an average of 1 fatality for each 864,889,705 miles traveled.

Twenty-five employees were killed and 486 injured in coupling or uncoupling locomotives and cars, as compared with 14 killed and 312 injured during 1940. Twenty employees on duty were killed and 225 injured by coming into contact with fixed structures, and 46 employees on duty were killed and 2,616 injured in getting on or off cars and locomotives. Thirty-nine passengers on trains and travelers not on trains were killed, as compared with 80 killed during the preceding year. Of these 39 fatalities, 1 resulted from collision and 16 from derailments of trains and 1 from miscellaneous cause; 16 passengers on trains and 5 travelers not on trains were killed when getting on or off cars by being struck or run over, or through other miscellaneous causes. A total of 614 employees on duty were killed in train and train-service accidents, as compared with 434 during the preceding year. During the first 6 months of 1942, 35 passengers, 7 travelers not on trains, and 353 employees on duty were killed in railroad accidents of all kinds.

INVESTIGATION OF ACCIDENTS

The Bureau investigated 86 train accidents, of which 58 were collisions, 27 were derailments, and 1 was classed as a miscellaneous accident. The collisions resulted in the death of 95 persons and the injury of 1,061 persons; the derailments resulted in the death of 61 persons and injury of 640 persons; the miscellaneous accident involved

a train which stalled in a tunnel where excessive smoke and gas developed, this accident resulting in the death of 5 persons and the injury of 4 persons; the total was 161 killed and 1,705 injured.

The principal causes of the collisions investigated consisted of failure to obey meet orders, failure to clear the time of opposing superior trains, failure to provide proper flag protection for preceding trains, failure to operate following trains in accordance with signal indications, and failure properly to control speed while moving within yard limits.

Nine of the most serious accidents investigated were:

A derailment of a passenger train caused by the train striking a cylinder head which had been thrown from an engine on an adjacent track, resulting in the death of 13 persons and the injury of 49 persons; stalling of a freight train in a tunnel and excessive smoke and gas caused by oil feed not being shut off, resulting in the death of 5 persons and the injury of 4 persons; head-end collision between a passenger train and an engine and cars caused by the engine occupying the main track without proper authority or protection, resulting in the death of 5 persons and the injury of 42 persons; head-end collision between an express train and a freight train caused by failure to comply with provisions of a holding order and by permitting a train to enter a block occupied by an opposing train, resulting in the death of 4 persons and the injury of 3 persons; head-end collision between 2 passenger trains caused by an inferior train occupying main track on the time of an opposing superior train and by an inadequate automatic block-signal system, resulting in the death of 7 persons and the injury of 82 persons; head-end collision between a freight train and a passenger train caused by failure to address a restricting order to the superior train, resulting in the death of 5 persons and the injury of 35 persons; derailment of a freight train caused by the collapse of a bridge which had been weakened by flood water, resulting in the death of 5 persons and the injury of 1 person; derailment of a passenger train caused by excessive speed on a sharp curve, resulting in the death of 5 persons and the injury of 191 persons; and rear-end collision between a passenger train and a freight train caused by failure to provide adequate flag protection for preceding train and by failure properly to control speed of following train in accordance with signal indications, resulting in the death of 8 persons and the injury of 9 persons.

A detailed report concerning each accident investigated is made public when completed.

GRADE CROSSINGS—RAILWAY WITH HIGHWAY

During the calendar year 1941, there were 4,320 accidents at highway grade crossings, which resulted in the death of 1,931 persons

and the injury of 4,885 persons. Automobiles were involved in 3,874 of these accidents, 1,679 persons being killed and 4,667 injured. There were 56 derailments of trains as a result of collisions between trains and automobiles, which caused the death of 23 persons and the injury of 56 persons. Of the total casualties resulting from derailments and other train accidents at highway grade crossings, 2 persons killed and 26 injured were railroad passengers, employees, and persons carried under contract. Information concerning accidents of this character, together with comparable statistics for the preceding 2 years, and the number of crossings, railway with highway, is shown in the following tables:

Accidents at highway grade crossings, years ended December 31, 1939, 1940, and 1941

	1939			1940			1941		
	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured
Accidents at highway grade crossings.....	3, 476	1, 398	3, 999	4, 104	1, 808	4, 632	4, 320	1, 931	4, 885
Accidents at highway grade crossings involving automobiles.....	3, 065	1, 190	3, 744	3, 685	1, 576	4, 430	3, 874	1, 679	4, 667
Derailments of trains as a result of collisions between trains and automobiles.....	54	32	46	71	51	79	56	23	56
Miscellaneous train accidents as a result of collisions between trains and automobiles.....	129	70	59	187	113	90	192	99	90
Automobiles registered.....	30, 615, 087			32, 025, 365			34, 355, 100		
Railroad casualties:									
Passengers.....			42			20			17
Employees.....		20	64		8	60		10	61
Persons carried under contract.....						1			3
Total.....		20	106		8	81		10	81

Grade crossings, railway with highway

Year ended December 31—	Number at end of year	Number actually added and eliminated during the year		Net decrease
		Added	Eliminated	
1941.....	229, 722	563	1, 502	939
1940.....	230, 285	730	1, 507	777
1939.....	231, 104	808	1, 554	686
1938.....	231, 406	641	1, 805	1, 164
1937.....	232, 322	895	1, 843	948
1936.....	232, 902	491	2, 134	1, 643
1935.....	234, 231	887	2, 071	1, 184
1934.....	234, 820	999	2, 109	1, 110
1933.....	235, 827	788	2, 029	1, 241
1932.....	237, 035	815	1, 447	632

SAFETY APPLIANCES

Ninety-six cases of violations of the safety-appliance laws, comprising 222 counts, were transmitted to United States attorneys for prosecution; cases comprising 169 counts were confessed, and 6 were dismissed. The 2 counts which were under advisement last year have been decided in favor of the Government. On June 30, 1942, there were pending, in the district courts, 63 safety-appliance cases containing 122 counts.

The safety appliances on approximately 1,221,000 cars and locomotives were inspected. The number of safety-appliance defects per 1,000 cars and locomotives inspected was 30.15, as compared with 29.15 for the fiscal year 1941 and 30.43 for the fiscal year 1940.

During the year, attention has been given to a number of matters which affect safety of railroad employment and travel.

In our report of July 18, 1924, we directed attention to the necessity for improvement of air-brake systems. Pursuant to the recommendations contained in that report, the Association of American Railroads subsequently adopted revised specifications for power brakes of freight cars and later prescribed a rule, effective January 1, 1935, which provided for the progressive installation, on cars in interchange, of air-brake equipment conforming to these revised specifications; this program was to be completed on or before January 1, 1945. On June 30, 1942, after this rule had been in effect $7\frac{1}{2}$ years, or 75 percent of the allotted period, only 34.05 percent of the freight cars in interchange had been equipped in accordance with this rule. Only a few of the class I carriers have maintained the schedule necessary to accomplish the installation as provided by the rules. Under the stress of present wartime traffic conditions, it is particularly important that the advantages of this improved equipment be made fully available as rapidly as possible.

Tests have been continued during the year to determine the proper cleaning period for the standard air-brake equipment.

The Bureau has kept in touch with the development and use of brake equipment designed for control of trains operated at high speeds, including designs which apply braking force to surfaces other than wheel treads.

Continued cooperation with the Association of American Railroads has resulted in a revision of the standard specifications for geared hand brakes on freight cars as adopted by that association in 1935. The object of the revision, which has not yet been finally approved, is to provide greater uniformity in operation and in power delivered by such hand brakes, and to assure that the various designs of this equipment comply with the specifications.

During the year the Bureau has cooperated with the War Department and the Association of American Railroads in tests and observations for obtaining data and formulating conclusions relative to procedure for blackouts on railroads as a protection against air raids.

In response to requests of the Department of the Interior, cars intended for purchase by the Alaska Railroad were inspected and reported upon by representatives of the Bureau, and cars purchased by that carrier were inspected for acceptance after work of rehabilitation was completed.

At the close of the fiscal year, 60,854 covered freight cars, owned by 50 railroads and 6 private car lines, had been equipped with metallic running boards of various types, as permitted in the orders of the Commission.

During the year, the Bureau made an investigation of the physical condition of the property and the operating conditions and practices of the Toledo, Peoria & Western Railroad in compliance with a request by the Federal Manager of this railroad.

HOURS OF SERVICE

Hours of service reports were filed by 745 railroads, of which 550 reported no instances of excess service. The remaining 195 railroads reported a total of 14,280 instances of all classes of excess service, as compared with 7,409 instances reported by 174 railroads for the preceding year, an increase of 21 railroads and an increase of 6,871 instances.

Thirty-five cases of violations of the hours of service law, comprising 98 counts, were transmitted to United States attorneys for prosecution. Cases comprising 45 counts were confessed and 14 tried. The latter counts were included in 2 cases, one of 5 counts and the other of 9, and both were decided against the Government. The case containing 9 counts is pending on appeal. On June 30, 1942, there were pending, in the district courts, 28 cases containing 84 counts.

SIGNALS, INTERLOCKING, AND AUTOMATIC TRAIN-STOP AND TRAIN-CONTROL DEVICES

On January 1, 1942, signal systems, interlocking, and automatic train-control devices were in use as follows:

Block-signal systems

	Miles of road	Miles of track
Automatic	66,423.4	97,361.0
Nonautomatic	46,518.8	48,328.2
Total	112,942.2	145,689.2

Interlocking

Number of plants----- 4, 487

Automatic train-stop, train-control, and cab-signal devices

	Miles of road	Miles of track	Locomo- tives
Intermittent ¹ -----	6, 459. 0	11, 994. 0	5, 727
Continuous-----	4, 170. 5	8, 584. 4	4, 532
Total-----	10, 629. 5	20, 578. 4	10, 259

¹ Listed under intermittent are 369 locomotives having dual intermittent-continuous equipment.

Detailed information concerning these installations is contained in the annual signal bulletin, compiled separately.

During the year, 1,279 applications for approval of proposed modifications of signal and interlocking installations were filed, and 1,336 applications were acted upon. At the close of the year, action was pending on 127 applications.

Approval was given with respect to four applications on which hearings were held and upon which action was pending, as noted in the report for last year.

Action was taken on 18 applications upon which hearings were held during the year, all of which were granted; action is pending on 17 applications upon which hearings have been held.

Our order, dated April 13, 1939, prescribing rules, standards, and instructions for installation, inspection, maintenance, and repair of systems, devices, and appliances covered by section 25 of the Interstate Commerce Act, provides that these rules, which became effective September 1, 1939, may not be modified without approval. On July 1, 1941, 7 applications for approval of modifications of certain sections of these rules, or extensions of time within which certain sections became effective, were pending; during the year ended June 30, 1942, a total of 135 applications of this nature were filed; 122 applications were acted upon during the year and 13 were withdrawn; at the close of the year 7 applications were pending.

Paragraph (b) of section 25 of the Interstate Commerce Act, as amended (1937), provides "that the Commission may, after investigation, if found necessary in the public interest, order any carrier within a time specified in the order, to install the block signal system, interlocking, automatic train stop, train control," and other similar appliances, methods, and systems intended to promote safety of railroad operation. Pursuant to this provision of law and acting upon information obtained as a result of investigation of accidents which disclosed the inadequacy of safety measures provided by certain carriers on parts of their lines, we issued orders against six carriers requiring them to show cause why they should not be re-

quired to equip certain portions of their respective railroads with certain appliances, methods, or systems specified in the said orders. These proceedings are still pending.

Monthly signal-failure reports filed by the carriers during the period from July 1, 1941, to June 30, 1942, inclusive, are summarized as follows:

False restrictive failures-----	38,869
False proceed failures-----	223
Potential false proceed conditions-----	24

Under section 25 (d) of the Interstate Commerce Act, we are authorized to inspect and test block-signal systems, interlockings, automatic train-stop, train-control, and cab-signal devices, and other similar appliances, methods, and systems intended to promote safety of railroad operation. Pursuant to these provisions, inspections were made during the year as follows:

Block-signal systems-----	380
Interlockings-----	683
Automatic train-control and cab-signal devices-----	146
Centralized traffic-control systems-----	33
Other similar appliances, methods and systems-----	23

Total -----	1,265
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This relatively small number of inspections is inadequate to secure in full the intended benefits of this provision of the law, and estimates have been submitted to provide for the employment of additional inspectors in this section of our organization.

EXAMINATION OF DEVICES

Plans of 10 devices designed to promote safety of railway operation were examined by our engineers, and reports thereon were transmitted to the proprietors or their agents.

MEDALS OF HONOR

During the year ended June 30, 1942, no application for award of a medal of honor under the act of February 23, 1905, was filed.

During the period July 1 to October 30, 1942, one application was filed, and a medal was awarded to Hollis W. Wortham, employed by the Illinois Central Railroad Company, for his action in saving the life of a man on a railroad track at Fort Knox, Ky., on February 27, 1942.

Since the passage of this act, 78 applications have been filed, of which 48 have been approved and 30 denied.

BUREAU OF SERVICE

During the past year, the Bureau of Service was actively and intensively engaged in carrying out the car-service provisions of the Interstate Commerce Act as defined in section 1 (10), which relates to the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives and cars, and related provisions of the act defining the emergency powers of the Commission. For several months prior to the entry of the United States into the war, the Bureau was actively engaged in promoting a more flexible and usable car supply and lending its support to a campaign to improve the general railroad transportation situation.

Beginning in June 1941, our regular force of service agents was increased by the employment of additional men. As quickly as these men could be obtained and instructed, they were located in important railroad terminals and used to assist our experienced men, by keeping in close touch with the general transportation situation throughout the country through contacts with the chief operating officials of the carriers as well as the shipper organizations in their territory. Forty temporary agents, in addition to our 16 regular service agents, are now employed. These agents have been engaged in reducing and preventing car detention and promoting effective utilization of locomotives and all types of cars. Individual problems, as they arose in the various phases of railroad activities, received immediate attention. The greatly increased demand for cars throughout the country has been well met. Shortages and threatened shortages have been temporary only.

Since December 7, 1941, the Bureau's activities have been greatly intensified and more widely distributed.

The efforts of our field men and those of several shipper organizations have brought about splendid cooperation between railroads and shippers. Our work with the Association of American Railroads has been particularly effective. We have maintained close contact with that organization and worked in harmony with it. The National Association of Shippers Advisory Boards and local Car Efficiency Committees organized through it, and the National Industrial Traffic League, have all effectively contributed in the common effort. We have kept closely in touch both in the field and in Washington with officials and executives of the above organizations, with the Office of Defense Transportation, and with other Government agencies, including the Army and Navy. Our field men are instructed in all cases to work cooperatively with the railroads, individual shippers, and representatives of the other organizations striving to promote and maintain an adequate supply of cars and locomotives to handle the Nation's railroad transportation.

During the period covered by this report it was necessary in 26 instances to exercise the emergency powers conferred upon us by the car-service provisions of the act, section 1 (15), (16), and (17), and Service Orders Nos. 68 to 93, inclusive, were issued. Service Orders Nos. 72, 73, 76, 78, 79, 81, 86, 90, and 91 have since been vacated. These service orders are discussed in detail elsewhere in this report.

As an illustration of the beneficial results which have been secured through the issuance of a service order the following is cited:

Potomac Yard is the most important gateway for movement between the North and South. It was used as one of the principal diversion points for perishables moving from the southeastern States. This arrangement, troublesome for years, recently became serious owing to the fact that a number of hold tracks were required to accommodate cars being held awaiting diversion necessitating during times of heavy traffic holding trains out of the yard. Service Order No. 77 eliminated this yard as a diversion point. Since that action was taken there has been without exception a free movement through Potomac Yard.

Nationally, there has been a continuous increase in tonnage handled and many changes in the type of traffic and in the direction of flow. Many types of export traffic have disappeared while others have multiplied many times. Some ports which have not been used for years are now heavily burdened. The conditions incident to the war and its manifold activities have necessitated constant watching of developments in transportation, and our field men have been constantly on the alert. They have corrected numerous developed and developing conditions by prompt handling with the officials responsible. They, as well as representatives from the Washington office, have conferred with individuals and with groups of officials and assisted in working out plans to relieve congested terminals, ports, and other congested points on railroad main lines and in yards.

Among other things, the activities of the Bureau, and its field representatives in particular, have been devoted not only to the reduction of car delays by industries, but also to those delays caused by the railroads themselves. Yards and terminals have been carefully observed to insure the prompt handling of through traffic. In instances where congestion existed or was threatened, immediate corrective measures were taken. As the transportation load shifted from one section of the country to another our force has been detailed as would best meet the emergency. Intensive attention has been given to railroad terminals, divisions, and even systems, where a concentrated volume of business has threatened congestion. Obviously the details of such activities may not be discussed in this report.

The usual large number of demurrage complaints and disputes was received and disposed of informally. Many other informal matters

and complaints relating to various phases of car service and transportation problems were brought to our attention either directly or through our service agents, and were promptly adjusted.

During the period from October 1, 1941, to September 30, 1942, the surplus of boxcars increased from 15,194 to 28,354, a difference of 13,160, or 86.6 percent, owing principally to the heavier loading of freight, particularly less-than-carload freight. A total of 160,593 cars of less-than-carload freight was loaded during the week ended September 27, 1941, as compared with 89,865 during the week ended September 26, 1942, a decrease of 70,728, or 44 percent. This indicates the increased efficiency with which a comparable amount of tonnage was handled.

Surplus hopper and gondola cars dropped alarmingly from 10,442 to 4,446, a decrease of 5,996, or 57.4 percent. This type of equipment, used chiefly to transport coke, coal, steel, sand, gravel, scrap iron, and war matériel, has been in unusually heavy demand owing to the increased number of construction projects and the movement of large volumes of defense and war materials.

The surplus of all railroad-owned freight cars increased from 41,206 to 42,649 cars, a difference of 1,443 cars, or 3.4 percent. A total of 68,830 new railroad-owned cars was placed in service during the period, and 8,143 cars were either destroyed or dismantled.

The number of freight cars owned by the railroads has decreased considerably since World War I as shown by the following figures as of September 1 for the 3 years shown: 1918, 2,268,596; 1929, 2,269,005; and 1942, 1,737,109 (which includes the net gain of 60,687 new cars added). The number of cars of revenue freight loaded during a comparable 3 years was as follows: 1918, 44.59 million; 1929, 52.83 million; and 1941, 42.28 million. There has been, however, an increase in the revenue ton miles as shown by the figures for the following years: 1918, 405.38 billion; 1929, 447.32 billion; 1940, 373.25 billion; and 1941, 475.07 billion.

From the above, it is evident that a more efficient use of cars is being obtained as seventy billion more revenue ton miles were carried in 1941 than in 1918 with one-half million less freight cars. This has been due to the heavier loading of cars and to the fact that an average load moves a considerably greater distance than formerly. It is apparent, therefore, that carloadings by themselves are a very poor index as to the volume of business being handled by the carriers, and it is necessary to consider other factors in addition to carloadings in order to arrive at the true picture of railroad operation.

The average turn-around time of cars increased from 12.6 days in September 1941 to 13.5 days in September 1942 due to cars

traveling greater average distances as indicated by the increase from 369 to 420 ton-miles per car per day. Bad-order cars decreased 33.5 percent as of September 15, 1942, or from 77,349 cars on September 30, 1941, to 51,454 cars on September 15, 1942, and represent only 3 percent of the total number of railroad-owned freight cars, this being the lowest percentage of bad-order freight cars to railroad-owned cars in the history of railroads.

Certain types of cars have a seasonal demand. In preparation for such demands expeditious handling and assembling of suitable cars were urged and observed. Several times during the year there has been cause for uneasiness as to the supply of refrigerator cars for some approaching seasonal movement. Each such emergency has been met. As this is being written, some difficulty is being experienced in delivering refrigerator cars from East to West, particularly to Arizona and California, to be loaded East.

Investigations have been made and remedial measures taken regarding the misuse and abuse of equipment. Ground storage has been encouraged in order to release cars and return them to transportation service.

For some months there has been evidence of an approaching shortage of open-top cars. The Bureau has been extremely active in the conservation of this type of equipment by repeatedly bringing the matter to the attention of all users of open-top equipment, and especially to the attention of coal and steel shippers and consumers, urging coal shippers to cut down on so-called unbilled loads and to unload coal immediately, and transshippers at lake and tidewater to schedule coal in accordance with boat capacity, and to reduce drastically the number of their classifications.

As early as the spring of 1941 following the coal strike, the Bureau of Service, realizing the emergency would create an abnormal demand for coal resulting in a material increase in production, started to formulate plans for greater efficiency in the handling of coal-car equipment.

Since November 1, 1941, the production of bituminous coal has amounted to 11,000,000 tons weekly while anthracite has amounted to 1,150,000 tons weekly. To maintain an adequate car supply at the mines for the transportation of this volume of tonnage to its many destinations was a real task, but this has been accomplished. Working in conjunction with the Car Service Division of the Association of American Railroads through the service agents of the Bureau of Service located at various points over the country, a campaign was started to secure better and prompter movement of coal at various destinations. The results have been most gratifying. In addition to the above, we also made surveys at the various lake docks and tide-

water piers where the handling of coal is on a volume basis. These surveys resulted in the establishment of coal emergency bureaus, and with the cooperation of the transshippers and railroads, resulted in a considerable saving in the use of coal-carrying equipment. There has been a substantial reduction in the average time which coal has been held in cars at these various tidewater piers and lake docks. Figures are not yet available for the eastern seaboard, but the results at the lake docks will serve as representative of what has been accomplished. The average daily detention per car at the lake docks last year amounted to 3.82 days, while for the first period of this year, ending July 31, it amounted to 3.33 days. This resulted in a saving of 198,291 car-days in the handling of the lake coal cargo business.

No actual coal-car shortages have so far existed. There were some isolated cases where mines were shut down for short periods because of local car distribution, but a full supply of empties was quickly placed, and the mines worked an additional day without loss of tonnage.

Steel producers have been urged to ship by water, especially shipments to Gulf port shipbuilders. General admonition has been given to shift loads, wherever possible, from rails to inland waterways. These situations are expected to continue but will be closely observed and every effort made to keep them from becoming serious.

Unduly circuitous routing of all types of cars has been discouraged and at times prevented. Prompt car repairs are being demanded to save useful car-days. The number of bad-order cars averages 3 percent. A year ago the average was 4.7 percent.

Because of the diversion of coastwise oil tankers to war service, and also because of the submarine menace, the railroads have borne the burden of the movement of petroleum and its products in addition to the greatly increased volume of other traffic. When this method of shipment was begun, difficulties were encountered because it was necessary for the refineries to change their facilities for receiving water-borne cargo to permit rail unloading. Shipments were at first delayed in transit in this new and heavy movement, but through the efforts of our field men and all concerned, loading, unloading, and reloading of cars have been so improved that delays have been tremendously reduced. Trains of 60 or more tank cars are now moved from origin to destination over scheduled routes under symbol numbers to offset delays. Empty cars are returned to the loading fields in a similar manner. The Bureau has rendered effective service in this handling by checks made of movement through terminals and interchanges between the various railroads involved. These checks have expedited the handling of bad-order cars by assuring prompt repair and return of such cars to service, and by avoiding terminal delays.

The demurrage tariff was amended so that most privately owned tank cars held for unloading, reconsignment, diversion, or reshipment are now subject to demurrage charges even though the ownership of the cars and the track on which the cars are held is the same.

At the beginning of the harvest season, elevator and storage facilities for grain were practically filled to capacity, leaving little space available for this year's crop of wheat and other grains. Meetings were held in an endeavor to obtain the full cooperation of the many varied interests involved in solving this perplexing problem. Our field representatives attended these meetings, and have cooperated with the Department of Agriculture and the Association of American Railroads in handling the situation. As a result of studies made to effect efficient handling and avoid extensive misuse of grain boxcars, Service Order No. 80 was issued, by which a permit and embargo system was established at vital grain markets requiring shippers of grain to the larger markets to obtain permission from representatives chosen by the "trade" and appointed by the Commission as permit agents to control the movement of grain. Regulation through these grain permit agents has resulted in one of the most cooperative and effective types of traffic control with exceptionally beneficial results in the prevention of congestion and delay to a large volume of cars involved in the annual grain movement.

Meetings have been held with local car efficiency committees in different sections of the country. Detention of refrigerator cars, and gondola and other open-top cars that are so badly needed, has been constantly checked, and their release has been greatly improved. Government construction projects, steel mills, coal mines, tidewater piers, shipyards, and all places where detention to cars might exist have received our careful attention.

Railroad records have been constantly reviewed and as a result are in better condition. Demurrage records generally are properly maintained, and demurrage charges are properly assessed. Through numerous conferences with various organizations and representatives of industries and carriers, held by the Commissioner in charge of the Bureau and participated in by this Bureau, a number of voluntary changes in the demurrage rules have been effected, all of which tend to intensify the efforts in the prompt handling of cars.

Despite our efforts to prevent undue detention of cars our service agents continue to report and handle instances where shippers delay loading or unloading of cars, and are tightening up on their insistence upon more cooperation and more prompt handling. Some embargoes have been placed in stubborn cases in order to secure the desired results. There has been a vast increase in the number of vital war industries which are dependent one upon the other for supplies and materials.

Where such firms are involved our field force is required to use caution and diplomacy in taking action to correct car detentions so that drastic steps, when necessary to enforce our demands, will not be detrimental to the war effort.

At the request of the Senate Committee on Interstate Commerce, compilations were made for the 12 months ended June 30, 1942, showing, by commodities, the detention of cars and demurrage assessed. The total number of reports rendered by our service agents during that period was 11,996, an average of practically 1,000 per month. During that period the reports covering 1,598,498 cars were checked, of which 312,729 or 19.6 percent were held beyond the "free time." The demurrage amounted to \$1,167,856.91, an average of 73 cents per car handled, or \$3.73 for each car held beyond the "free time."

The Section of Explosives and Other Dangerous Articles was very active in providing, within the bounds of safety, for conserving materials subject to priorities going into containers used for the transportation of explosives and other dangerous articles.

Orders were issued requiring immediate changes that were necessary to the national emergency. These orders covered alloy steel cylinders for liquefied petroleum gas; oversize tank cars for liquefied chlorine gas; gasoline tank cars of lighter construction; combination units of truck and full trailer for transportation of military and naval explosives; reuse of single-trip containers, which after inspection and test were found to be suitable for further transportation; use of substitute packages, thus permitting some shippers to continue in business; increase in loading for high-pressure gas cylinders; waiver for the duration of the war of periodic retests of tank-car tanks, safety valves, and heater systems; additional containers for rubber scrap and buffings, and additional kinds of woods made available for box manufacture.

The Bureau of Explosives, maintained by the Association of American Railroads, reports that, during the year 1941, in the transportation of explosives of all kinds by railroads in Canada and the United States, there were no fires, deaths, or injuries.

In the transportation of other dangerous articles there were 81 fires, the principal articles involved being charcoal with 32, strike-anywhere matches 14, and gasoline 13, with a total property loss of \$298,329. Of this amount, \$116,283 resulted from fires in shipments of gasoline in tank cars, and \$135,739 was due to shipment of crude oil.

BUREAU OF TRAFFIC

The functions of this Bureau now embrace, except as to all-motor transportation and temporary forwarder-motor rates dealt with by the Bureau of Motor Carriers, the administration of the provisions

of the act relating to rates, tariffs, and schedules for all transportation subject to the Interstate Commerce Act, including water transportation, over which the Commission's jurisdiction was broadened by the Transportation Act of 1940, and freight forwarders. The expanded jurisdiction has presented new problems pertaining to tariffs and other matters which have engaged the attention of the Bureau during the year, with more recent emphasis on the newly filed tariffs of freight forwarders. Suspension matters, as affecting all rates or schedules of carriers subject to the act, are handled by the Board of Suspension of this Bureau.

Most of the work of the Bureau, being connected with tariffs naming the only rates that can legally be charged for transportation, applications for relief from statutory provisions affecting such rates, and requests for suspension of changes in existing tariff rates, all under filings required or authorized by law, is of such a nature that practical and effective administration, the general public interest, and the furtherance of the war effort require this work to be maintained as nearly as possible on a current basis. Approximately 50 percent of the applications received during the past year for authority to establish rates upon short notice involved changes in rates attributable to the war emergency. Among the protested rate adjustments of which suspension was requested were various adjustments involving proposed rate increases protested by the War Department, the Department of Agriculture, the Office of Price Administration, or other Government agencies.

The increase in the number of tariff filings as compared with those for last year reflects the general freight, passenger, and express rate increases which became effective during the current year. The protested rate adjustments, as in the previous year, represent reductions predominantly but were substantially less in number, reflecting changed economic and transportation conditions resulting from the war and less extensive rate competition, particularly as between rail carriers and motor carriers.

In our previous report, we indicated that, although we had denied certain broad relief from the tariff-posting requirements of section 6 of the act upon the showing made by the rail carriers in support of their application, we considered that our authority extends to granting posting relief, even though broad in scope, to the extent that it is not incompatible with the public interest. Upon further consideration of the matter in the light of additional facts presented, we have since granted in large measure the broad relief sought, subject to certain safeguards to insure the reasonable availability to shippers of any particular tariffs in which they may be interested.

The Bureau has devoted considerable time to matters growing out of the various emergency service orders issued during the year by the Commission to prevent shortage of railroad equipment and congestion of traffic.

Data covering particular activities of subdivisions of this Bureau during the year are shown below.

SECTION OF TARIFFS

There were filed 101,120 tariff publications containing changes in freight, freight-forwarder, express, and pipe-line rates, passenger fares, and freight classification ratings. In addition thereto, 742 publications were received for filing, but were rejected for failure to give the notice required by the statute. Powers of attorney and certificates of concurrence filed aggregated 21,129. Applications received seeking special permission to establish rates or fares on less than statutory notice or waiver of certain of our tariff-publishing rules numbered 8,371. Specific orders entered granting, amending, or revoking special permission numbered 8,873 and denying special permission numbered 308. Correspondence relating to tariff construction in accordance with our rules and regulations promulgated under section 6 and related sections of the act consisted of 24,903 letters received and 19,189 letters written. For our own use, as well as for the use of other branches of the Government and of shippers, 3,514 rate memoranda were prepared. Our duplicate tariff file has been maintained for the use of the public.

SUSPENSIONS

Rate adjustments were protested and suspensions asked in 1,117 instances. Of these protested adjustments, 853 represented reductions, 226 represented increases, 21 represented both increases and reductions, and 17 neither increases nor reductions. They covered not only a large number of rate schedules but many thousands of rates.

The following action was taken on the requests for suspension:

Suspended (including supplemental orders)-----	380
Refused to suspend -----	456
Schedules rejected, requests for suspension withdrawn, or protested schedules withdrawn-----	281
Total-----	1,117

Of the suspended adjustments, 252 were disposed of through informal proceedings, together with 152 adjustments suspended during the previous year.

Approximately 250 motor adjustments were protested by rail carriers, and approximately 40 rail adjustments were protested by motor carriers, these adjustments representing reductions in rates. As to over 90 percent of these adjustments, such protests were filed by associations of carriers. Water carriers protested about 25 reduced rail-rate adjustments, while only a very few water-rate adjustments were protested by rail carriers.

THE FOURTH SECTION

The number of applications was 688. The number of orders entered in response to applications was 693, of which 44 were denial orders, 349 were orders granting continuing relief, and 300 were orders authorizing temporary relief. One hundred and forty-six formal reports were issued.

Applications withdrawn, wholly or in part, after correspondence with carriers, numbered 29; and 115 applications or portions thereof were heard in fourth-section proceedings.

The number of petitions for modification of orders was 272, of which 202 were granted, 47 were denied, 2 were withdrawn, and 21 are pending.

EXPRESS

Of the tariff publications filed, 2,174 represent changes in express rates and classification ratings. Of the applications received seeking special permission to establish rates on less than statutory notice or waiver of certain of our tariff-publishing rules, 94 related to express rates.

RELEASED RATES

There were filed 16 applications for authority, under section 20 (11) and section 413 of the act, to establish rates dependent upon declared or agreed values, and 4 such applications were pending at the beginning of the year. Of these, 13 were granted, 5 were withdrawn, and 2 are pending.

BUREAU OF TRANSPORT ECONOMICS AND STATISTICS

Since Pearl Harbor, and more particularly after the establishment of the Office of Defense Transportation, there has been a large increase in the demands made upon this Bureau by Government agencies and the public. These demands have been of two sorts, those involving requests for statistical data and those involving the performance by the professional or clerical staff of the Bureau of specific assignments for other Government agencies. At the present time the War Production Board, the Office of Price Administration, the War Department, and various other Government agencies, in addition

to the Office of Defense Transportation, are wrestling with numerous problems involving transportation and transport facilities in the analysis of which the current and annual data collected and published by our Bureau of Transport Economics and Statistics are fundamental. This has resulted not only in the greatly increased demand for our current and annual statistical reports but has also more than doubled the volume of inquiries and requests as to available data and sources of information on numerous transportation matters.

Among the specific assignments for other Government agencies on which our analysts have worked in the last 6 months of this fiscal year may be mentioned the following:

Strategic and Critical Materials, for the Senate Military Affairs Committee.

Cross Hauling, for the Office of Defense Transportation.

Rail Traffic Forecasts for 1942, for the War Department.

Petroleum Transportation Costs in Bolivia, for the State Department.

May 27 Waybill Study, for the Office of Defense Transportation.

Locomotive Condition Report, for Office of Defense Transportation.

In addition to the foregoing, we furnished the Office of Defense Transportation at its request with a special tabulation by months of railway employment by districts and regions covering a period of the last 10 years, and on request are furnishing that agency currently with a special compilation of certain passenger operating and traffic averages for selected railroads. A special questionnaire for this agency on the subject of apprentices was also prepared and the replies tabulated. Clerical staff to the extent of approximately 186 man-days was loaned to the Office of Defense Transportation to assist that agency in the necessary editing, coding, and checking of railroad waybills received in its May 27 waybill study preparatory to their mechanical tabulation. Assistance was given in preparing the detailed schedules used by our Bureau of Valuation in obtaining a detailed report of railroad metal available for scrap as requested by the War Production Board. Some time has been spent by members of the professional staff of this Bureau in conferences with staff members of the Office of Defense Transportation and the War Production Board relating to the forecasting of traffic requirements for the use of the former agency and possible changes and revisions of our freight commodity statistics and reporting methods in connection therewith.

Water carriers were divided into three classes for statistical purposes by our order of January 19, 1942. Class A includes those with

annual operating revenues exceeding \$500,000; class B, those with revenues exceeding \$100,000 but not more than \$500,000; and class C, those with revenues of \$100,000 or less, the initial classification being based on the average revenues of the 3 years ended December 31, 1941. Annual and quarterly reports are required from these carriers except that by order of March 21, 1942, class C water carriers were excluded from the requirement to furnish quarterly reports.

Private car lines, designated by law as "persons which furnish cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company," were required to file quarterly reports of the number of freight cars with other pertinent information. (Order of January 19, 1942.) The first quarterly tabulation for 1942 covered 465 car companies owning or leasing 308,387 cars, of which 42.8 percent were refrigerator and 51.7 percent tank cars. The hire of these cars is mostly on a mileage basis, and the total car-hire revenue was \$32,520,510 for the quarter. An annual report form has also been prepared for these companies.

Under the authority of section 412 of part IV of the Interstate Commerce Act, we have prepared a form of annual report to be filed by freight forwarders for the year 1942. Although the law does not recognize forwarders as being common carriers, our authority over the accounts and reports of forwarders is as complete as over those of the common carriers subject to parts I, II, or III of the act.

By our order of December 18, 1941, as amended August 31, 1942, each steam-railway company which had operating revenues of more than \$10,000,000 for 1941 is required to file an annual consolidated statistical statement as a supplement to its regular annual report beginning with the year 1942 in accordance with prescribed income, profit and loss, and balance-sheet forms. Such consolidated statement is required to be a summation, portraying the combined accounts of the respondent and subsidiary companies before and after the elimination of intercompany transactions. For this purpose the term "subsidiary companies" includes lessor transportation companies regardless of the extent of stock ownership and other companies classed as joint facilities. The consolidated statistical statements provided for under the terms of our order should prove a valuable supplement to the information now furnished by the carriers.

The cost-finding section in this Bureau during the year prepared analyses of testimony relating to cost of service in 20 proceedings before the Commission and has further developed methods for use in determining railroad costs. An additional formula for determining highway trucking costs of general cargo carriers on a terri-

torial basis is nearing completion. Formulas have been developed for the ascertainment of transportation costs by lake carriers, ocean carriers, and barge lines. Extensive work has been completed in the development of joint rail-barge costs. The cost finding section prepared additional exhibits for docket No. 28300, Class Rate Investigation, with special attention to the distinction between the so-called constant and variable expenses.

For use in the class-rate investigation this Bureau also prepared a series of tables and charts to show the economic development of the various rate territories. With the cooperation of the Office of Defense Transportation, an analysis was made of all of the railroad waybills for carload freight originated on a single day (May 27, 1942) to indicate the volume of movement within and among the rate territories by classes of commodities. Jointly with the Bureau of Safety, this Bureau conducted a field test of the accuracy of reports of employee injuries in railway accidents.

Among other special studies prepared since our last report are the following:

1. *Seasonal variation in Pullman Company berth revenue, seat revenue, and passenger-miles, 1923-1941.*

2. *Highway motor-vehicle enterprises in which steam railways had a financial interest at the close of the year 1940.*—The study shows that 44 class I railways had a financial interest in 120 highway motor-vehicle enterprises.

3. *Rates of return on value of property of all operating steam-railway companies for calendar year 1940.*—The property values used in this statement for each of the 735 railways were those recommended by the Bureau of Valuation for the purpose of these calculations.

4. *Rail-highway grade crossing accidents, 1941.*—The 4,320 accidents reported, which resulted in 1,931 deaths and 4,885 injuries, are analyzed according to months, day of week, hour of day, kind of train, type of crossing protection, speed, length of train, part of train struck, and other items.

5. *Railway freight rates on anthracite coal, with index numbers, 1929-42.*—This is part of a general study of the trend of freight rates and shows that on July 1, 1942, anthracite coal rates, according to a weighted average, were 0.7 percent below the level on January 1, 1929.

6. *Fluctuations in railway freight traffic compared with production, 1928-41.*—The 1941 edition of this series shows a pronounced improvement in 1941 compared with other recent years in the ratio of actual railway tons to potential railway tons.

The Graphical Supplement to Monthly Reports, issued monthly since 1931, was discontinued January 1, 1942. The modifications of the report forms during the year were chiefly such as were made necessary to conform with the numerous changes in the official classification of accounts. A list of the annual, quarterly, and monthly

publications regularly issued from this Bureau will be found in the Statistics of Railways.

During the year ended June 30, 1942, the number of statistical reports of all kinds received, including reports of motor carriers, was 42,681, of which 3,100 were annual, 9,161 quarterly, and 30,253 monthly, and 167 special. In this count an annual report was taken as 1, a quarterly report as 4, and a monthly report as 12, regardless of the number of sheets in each report. The number of carriers filing reports, as represented by the number of annual reports received, is as follows by class of carrier:

Class of carrier	1941	1940
Steam railways, including lessors.....	1, 076	1, 082
Motor carriers.....	1, 447	1, 323
Water carriers.....	402	91
Pipe lines.....	74	71
Electric railways.....	88	91
Express company.....	1	1
Pullman Company.....	1	1
Stockyard companies.....	11	
Total.....	3, 100	2, 660

During the 12 months ended September 30, 1942, steam railways submitted 104 reports under the Clayton Antitrust Act. These relate to the purchase under competitive bids of equipment, materials, or securities. Similar reports were filed by 13 motor carriers.

The uninterrupted decline in steam-railway mileage since 1930 continued in 1941, the miles of road owned at the close of that year being 231,971, or 1,699 miles less than the number 1 year earlier. The new investment in road and equipment of classes I and II line-haul railways and lessors, however, during the year 1941, was greater than the credit for retirement by \$48,015,373, compared with a net increase of \$160,700,008 in 1940, \$209,377,762 in 1937, and \$586,486,605 in 1930. In other years of the 1930's, there were net decreases. For the 10 years ended with 1941, the net decrease in railway investment was \$233,601,709.

A review of the traffic and earnings of 1941 is found elsewhere in this report. Selected statistical statements based on the reports of the carriers are given in appendix C hereto.

For the purpose of more accurately describing its functions, the name of this Bureau was changed from Bureau of Statistics to Bureau of Transport Economics and Statistics, effective July 1, 1942.

BUREAU OF VALUATION

While the Bureau was active during the year with its chief duties of collecting, correlating, checking, and preparing data for the Commission on valuation reports as required by section 19a (f) of the

Interstate Commerce Act, its scope of work was broadened by war demands on the Bureau, and by certain of our recent orders.

The first of these orders, in the reorganization case of the Chicago Great Western Railway, dated June 16, 1941, laid down certain requirements to govern the opening of books of reorganized companies, based on original cost to be supplied by the Bureau of Valuation. Such costs have been supplied in the case of reorganization, merger, and consolidation of 24 operating carriers—a total of 45 corporations; and the Bureau has requests or calls for such records, from an additional 29 operating carriers—49 corporations, now in various stages of reorganization.

Our order of June 8, 1942, requires railroads to set up reserves to cover annual depreciation in property in several road accounts, following like requirements covering equipment. Under these orders, it is incumbent upon the Bureau to furnish statements of original cost and annual depreciation rates by accounts. We have had to increase our cost and depreciation staff to meet the demands of 785 operating carriers and a total of 1,275 corporations for such data. This has drawn members of the staff from other work required by the act.

We have also, by permissive order of June 29, 1942, authorized carriers to set up reserves to cover deferred maintenance that is attributable to inability to obtain materials and labor during the war. This will call for checking the basis for such reserves.

The Bureau has been increasingly active in complying with requests from war agencies, including the United States Maritime Commission and the Treasury and Justice Departments, for certain appraisals of lands and properties for war purposes, and for consultative services.

One of the Bureau's major war activities has resulted from a wide range of calls from the Office of Defense Transportation. It has been necessary to assign a large part of the time of certain engineers to meeting calls arising out of such emergency situations as the movement of oil and gasoline by pipe line and tank cars. The Bureau's land and building appraisers have been called on to ascertain and recommend proper rentals for warehouses and storage space for war and kindred materials; and as the year closes there are prospects that this activity will become extensive. Our engineers also are called on to analyze the physical properties of railroads for the ascertainment of available scrap, re-lay rail, and usable track materials that, through abandonments, would be made available for essential war uses.

The Bureau continued complying to the extent of its ability with numerous requests from other Government departments and State,

municipal, and county authorities, and also of shippers, for diversified data pertaining to the valuation and reorganizations of common carriers.

Keeping valuation data current.—As was stated last year, the Commission, through the Bureau, has been making every effort to comply with paragraph fifth (f) of section 19a of the Interstate Commerce Act, which requires it to do those things essential to “have available at all times” the information necessary to revise and correct its previous inventories, classifications, and values. However, because of heavy demands for current information, and inadequate staff, the Bureau has for several years been unable to keep pace with the accumulation of yearly reports and data. Every effort is being made to have the data in such status that in emergencies it can be used even though not fully checked and correlated.

The basic program of valuing interstate oil and gasoline pipe lines having been completed, the Bureau’s pipe-line activities now are centered on collecting and perfecting data to be used in correcting valuations, and in securing inventories and other valuation data from newly organized carriers entering the interstate field of transportation. These records have been, and are, of great value in dealing with the war emergencies.

Formal cases.—The Bureau furnished exhibits and other data for numerous cases during the year, among the most important being Ex Parte 148, Increased Railway Rates, Fares, and Charges, 1942. In that case the Bureau prepared an exhibit showing valuation elements as of January 1, 1940, for all steam railroads and switching and terminal properties in the United States, the data for all class I railroads being shown for each carrier. Other important cases pending, or followed up during the year, in which the Bureau participated were docket No. 28300, Class Rate Investigation; docket No. 27766, so-called “Anthracite Case”; docket No. 28190, Transportation of New Automobiles; docket No. 26459, cost-study case, Florida East Coast Railway et al. v. Atlantic Coast Line Railway Company et al.; docket No. 26570, Reduced Pipe Line Rates and Gathering Charges; Ex Parte 150, Pullman Charges; and Investigation and Suspension Docket No. 4481, Switching, Thomasville, S. C.

By direction of the Commission, the Bureau completed the work of recommending final values as of January 1, 1940, for all operating steam-railway companies, which recommended values were used in analyzing earnings and return on value for comparison with return shown by railroads on the basis of book investment, undepreciated.

Work done for other Government agencies.—The most active phase of work for other agencies has been that done for war agencies. Since November 1, 1941, the Bureau has received from war agencies

131 requests for special appraisals of property desired for airfields, shipbuilding and repair yards, extension of plant facilities, et cetera. In addition to appraisals, the Bureau has furnished considerable data to war agencies in connection with prices or costs of railroad and pipe-line property, locating metals, abandonments of lines, and location of pipe lines. Besides the work done for the War and Navy Departments, the Maritime Commission, and Office of Defense Transportation, work of varying nature was done for, and data furnished to, the Treasury Department, Department of Agriculture, the Department of Justice, War Production Board, Reconstruction Finance Corporation, and others.

By our Bureau of Valuation we maintain the property records of railroads and oil and gasoline pipe lines. The utility of such inventories and records, and the wisdom of maintaining a staff that is familiar with the properties and their records, and having such information "available at all times," is being demonstrated constantly.

BUREAU OF WATER CARRIERS AND FREIGHT FORWARDERS

The functions of the Bureau of Water Carriers, described in our previous report, were expanded to include administrative functions in connection with applications for permits to engage in service as a freight forwarder under part IV of the act, and issuance of such permits. Work of the Bureau is separately treated below.

WATER CARRIERS

A summary of the status of the work in connection with water-carrier applications follows:

Water-carrier applications

Applications filed to Oct. 31, 1942:

For authority to continue operations under "grandfather" clause--	763
For authority for new operations-----	37
For exemption-----	413
For authority to extend operations-----	3
For temporary authority-----	129

Total-----	¹ 1,345
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During period Nov. 1, 1941, to Oct. 31, 1942, inclusive:

Certificates issued:

Authorizing continuance under "grandfather" clause-----	² 125
Authorizing new operations-----	4

Permits issued:

Authorizing continuance under "grandfather" clause-----	33
Authorizing new operations-----	2

¹ Includes 70 applications withdrawn without docketing.

² 2 certificates vacated.

Orders issued:

Granting temporary authority-----	40
Granting exemption-----	9
Substitution applications:	
Approved-----	5
Applications dismissed or denied:	
For exemption-----	63
For authority to continue operations under "grandfather" clause	243
For authority for new operations-----	15
For temporary authority-----	14

	Formal cases	BWC	Total
Reports issued in connection with applications:			
On applications for exemption-----	8		8
On applications for "grandfather" rights-----	97	94	191
On applications for new authority-----	7		7
Short-form certificates, permits, and orders issued:			
On applications for "grandfather" rights-----		32	32
Total-----	112	126	238
Applications pending:			
For authority to continue operations under "grandfather" clause-----	72	265	
For authority for new operations-----	10	5	
For exemption-----	10	67	
For authority to extend operations-----		3	
For temporary authority-----		2	
Total-----	92	342	
Total pending-----			434

Many of the orders granting temporary authority under part III of the act have been for the purpose of authorizing war-emergency transportation, including the substitution of one type of water-carrier operation for the loss of service due to the diversion of vessels. The utmost cooperation has been extended to the various agencies of the United States Government which have a direct interest in water transportation to meet such emergencies. Much time has been devoted to supplying other governmental agencies with information as to the type of operations performed by the various water carriers, their capacity, and localities served.

REGULATION OF WATER CARRIERS

To date, of the 932 applications filed by water carriers for authority to continue or institute operations, 521 have been determined. One hundred and thirty-three common-carrier certificates of public convenience and necessity, 36 contract-carrier permits, and 62 temporary authorities have been issued. Two hundred and ninety-two of such applications have been dismissed or denied, primarily because applicants are not subject to our jurisdiction under part III of the act.

Most of the applicants sought authority to operate as contract carriers, but in the majority of cases they were found to be common carriers.

Because of the special nature of the services performed by different types of water carriers, division 4 found that proper administration required that it exercise the power under section 304 (c) to classify such carriers. The certificates and permits issued have limited the carrier to transportation by (1) self-propelled vessels, (2) sailing vessels, (3) non-self-propelled vessels with the use of separate towing vessels (barge-line services), (4) towing vessels, or (5) vessels furnished to persons other than carriers for use by such persons in the transportation of their own property (restricted to contract carriers by statutory definition in section 302 (e)). In some instances, a carrier has been authorized to perform more than one type of transportation.

Because of the broad scope of the exemptions in part III, probably the major portion of transportation by water is not subject to regulation by the Commission. Most water carriers are engaged in some exempt transportation. In a number of instances, much of the transportation performed by carriers otherwise subject to the act is exempt from regulation. Many carriers are engaged solely in exempt transportation, as for example, in the major movements of coal, bulk petroleum, bulk grain, and iron ore.

There has been no occasion to exercise the authority under section 304 (d) to relieve any carrier subject to part III from its provisions in order to eliminate undue disadvantages suffered by reason of competitive water transportation to or from a foreign country.

There has been considerable doubt as to whether part III gave us authority to regulate the operations of persons who do not operate vessels but who engage in the operation of public wharves and other terminal facilities used in connection with transportation of passengers or property by water in interstate or foreign commerce. In an ex parte proceeding instituted on our own motion, we found that such persons are not common or contract carriers by water, although the use of their facilities may be subject to regulation applicable to the vessel operators. Ex Parte No. 144, *Status of Wharfingers*, 251 I. C. C. 613.

While some informal investigations have been made under the authority of section 304 (e), it has been unnecessary to issue any orders to compel compliance with part III, or to institute any prosecutions.

Few formal complaints have been received attacking the reasonableness or lawfulness of the rates of water carriers. This is no doubt partially due to conditions resulting from the war.

Changes in water transportation due to the impact of the war prevent any comprehensive report at this time on the management of the business of water carriers or of persons controlling, controlled by, or under a common control with water carriers, as contemplated under section 304 (b). However, in the investigations connected with the disposition of applications for operating authority, information has been and is being accumulated pursuant to this provision.

While the war has disrupted the normal activities of practically all water carriers in varying degrees, we are proceeding with the development of regulatory methods under part III of the act, with the adjustment of the carriers to regulation, and with the determination of the applications for authority to continue past operations. This involves establishment of the proper status of the various carriers. The completion of these tasks is the necessary first step in determining the extent of our jurisdiction over water-carrier operations in connection with the development of a national transportation system, and in furnishing the basis for wise regulation to avoid chaotic conditions after the war. If history repeats itself, the end of the war will release an abundance of vessels for use in transportation subject to part III of the act.

IMPORTANT DECISIONS IN WATER CARRIER CASES

Many important questions involving matters of principle and proper interpretation of the provisions of part III were decided.

Common carriers by water have been authorized to engage in transportation of commodities generally where diversified commodities were handled on and since January 1, 1940, and continuance of services has been authorized to all intermediate points along the routes served by them and within the territories and waterways over which they have operated, if they have served the principal ports and have held themselves out to serve the other ports to and from which shipments may not have actually been handled on or since the statutory date. *Pope & Talbot, Inc., Common and Contract Carrier Applications*, 250 I. C. C. 117. In *Russell Bros. Towing Co., Inc., Common Carrier Application*, 250 I. C. C. 429, division 4 authorized continuance of applicant's entire general towage service rather than the limited operations on the statutory date which were not within the various exemptions of part III. In *Schafer Bros. S. S. Lines Contract Carrier Application*, 250 I. C. C. 353, we authorized applicant to transport lumber and lumber products as a contract carrier from all points within certain harbor areas in Washington and Oregon to all points in certain harbor areas in California upon a showing that it had been serving the general areas on and since the statutory date.

The disruption of transportation by water caused by the war emergency has resulted in discontinuance of many operations, particularly by the intercoastal and coastwise steamship lines. In such cases division 4 has found that interruptions of service caused by the requisitioning of vessels or by requests of appropriate agencies of the United States, which have been honored by the carriers, are interruptions over which the carriers had no control, and has granted certificates and permits authorizing the carriers to perform the operations in which they were engaged prior to the discontinuances. *Southern Pac. Co. Common Carrier Application*, 250 I. C. C. 457.

In *Oliver J. Olson & Co. Contract Carrier Application*, 250 I. C. C. 151, division 4 issued a certificate to applicant in the capacity of managing owner of vessels owned and operated on behalf of others, rather than to applicant in its own right.

In *Strickroot Common Carrier Application*, 250 I. C. C. 211, division 4 decided that a person is not engaged in operation as a common or contract carrier subject to part III of the act when he accomplishes the transportation through contracts of affreightment or for use of space in the vessel operated by another carrier.

In *Chicago, Duluth & Georgian Bay Transit Co. Applications*, 250 I. C. C. 334, division 4 found that the transportation of groups of passengers under charter arrangements was common carriage rather than contract carriage, because the carrier held out the service to the general public.

Many of the difficult problems in connection with the determination of applications are due to the wide scope of the exemptions provided in part III, and a number of these problems have yet to be solved. The situation has been alleviated considerably by three orders issued under authority of sections 302 (e) and 303 (e) of the act, exempting certain classes of contract carriers. In Ex Parte No. 146, Oil Field Equipment, Marshlands, Louisiana and Texas, division 4 exempted from the requirements of part III of the act for a period of 3 years from August 26, 1941, the operations by those contract carriers which lease or charter vessels for the purpose of transporting machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of, facilities for, the discovery, development and production of, natural gas and petroleum, to and from points in the marshland oil fields of Louisiana and Texas. In Ex Parte No. 147, Towage of Floating Objects, division 4 exempted until further order of the Commission transportation by contract carriers of empty vessels to and from shipyards, floating objects, such as derricks, dredges, tanks, caissons, pontoons, and other floating objects of varying shapes, sizes, and drafts which are not designed or used for the carrying of passengers and property. In

Ex Part No. 152, *Chartering of Vessels to the United States*, division 4 exempted until further order of the Commission the application of the provisions of section 302 (e) to those persons or class of persons who charter vessels to the United States Government or to an agency thereof, for use by the Government in transporting its own property in interstate or foreign commerce.

The status of water-carrier operations by railroads and their affiliates under part III of the act has been clarified by several decisions. In *Central Vermont Transportation Co. Common Carrier Application*, 250 I. C. C. 111, division 4 found that water transportation between a railhead in New London, Conn., and a terminal company in New York City was subject to part III of the act as well as to applicable provisions of part I. In *Ann Arbor R. Co. Common Carrier Application*, 250 I. C. C. 490, division 4 found that operations in the performance of car-ferry transportation between certain Michigan ports is subject to part I rather than part III of the act, but that the transportation of passengers and their vehicles on these vessels was not a ferry operation as exempted by section 303 (g) (2).

The scope of the exemptions of section 303 (f) and (g) (1), applicable to operations within a harbor or contiguous harbors, has been clarified by several decisions. In *Carroll Towing Co., Inc., Contract Carrier Application*, 250 I. C. C. 417, division 4 found that applicant's performance of towage service in the docking and undocking of vessels; in the shifting of loaded lighters between the vessels of foreign and domestic carriers and other vessels, docks, and terminals; in the towing of barges for railroads when the railroads require the use of additional tugboats; and in the towing of barges loaded with liquid petroleum products in bulk for two oil companies, were operations not subject to part III of the act. In *Evans Transp. Corp. Contract Carrier Application*, 250 I. C. C. 496, division 4 found that harbor lightering in foreign commerce in connection with transportation by carriers operating to and from foreign ports was not within our jurisdiction.

In *Thames River Line, Inc., Common Carrier Application*, 250 I. C. C. 245, division 4 found that the limits of a carrier's terminal area, within which the exemption of section 303 (f) applies, should be defined in the carrier's tariff, subject to change by the Commission in connection with any separate proceedings involving the lawfulness of such tariff provisions. This means of defining terminal areas permits the carrier to extend on contract the terminal service for the purpose of meeting the changes in industry and commerce within a port without being required to seek a change in its certificate. On the other hand, in *Pontin Lightering & Transp. Corp. Common and Contract Carrier Application*, 250 I. C. C. 441, division 4 found that a

common carrier engaged in operations within New York Harbor and contiguous harbors under common arrangements with coastwise carriers, to and from points beyond their terminal areas, was not exempted by section 303 (f) and (g) (1).

FREIGHT FORWARDERS

Copies of a prescribed form to be used by freight forwarders in applying for permits under section 410 have been forwarded to all freight forwarders of whom we have record and are available to others upon request. Until the applications for such permits are filed, the work of the Bureau in relation to matters arising under part IV will continue to be largely advisory and informational.

REGULATION OF FREIGHT FORWARDERS

By an act approved May 16, 1942 (49 U. S. C. 1001 *et seq.*), Congress added part IV to the Interstate Commerce Act. Under this part, we are given broad regulatory authority over freight forwarders engaged in interstate or foreign commerce as those terms are defined in the statute. Our authority over freight forwarders is now substantially comparable to our authority over carriers by rail, motor vehicle, and water.

Section 6 of this act provided that part IV of the Interstate Commerce Act should take effect on the date of enactment, except that section 405 should take effect 60 days after enactment and sections 404, 406, 413, 414, and 417 should take effect 90 days after enactment. It further provided that we should, if we found it necessary or advisable, postpone the taking effect of any provisions of part IV to such time, but not beyond September 1, 1942, as we should prescribe.

The freight forwarders generally found it impossible to prepare, print, and file their tariffs under sections 405, 409, and 415 on or before July 15, 1942. We therefore postponed the taking effect of sections 405 and 415 until September 1, and the taking effect of subdivisions (1), (2), and (3) of section 409 (a) until August 14, 1942. All provisions of part IV are now in effect.

Under section 410, freight forwarders in operation on May 16, 1942, are required to file applications for permits on or before November 12, 1942.

The tariff provisions of the act now being in effect, 155 freight forwarders have filed 9,268 tariff publications with us. Of these publications, 9,100 establish joint rates with common carriers by motor vehicle in accordance with the provisions of 409 (a), subsection (1), (2), or (3). Many such publications establish straight forwarder rates as well as joint rates with motor carriers. The remaining 168 tariff pub-

lications establish straight forwarder rates pursuant to the provisions of section 405. As it is now unlawful for a freight forwarder subject to the act to engage in the transportation of property in interstate or foreign commerce without having filed with us its tariffs of rates and charges, it may be assumed that the 155 freight forwarders who have filed tariffs are substantially all of the freight forwarders who were in operation on May 16, and whose applications for operating authority may be expected to be filed by November 12, 1942.

Shortly after the passage of the new act, we changed the name of our Bureau of Water Carriers to Bureau of Water Carriers and Freight Forwarders, and assigned to that Bureau all administrative handling of applications for permits and the issuance of permits pursuant to section 410 of the act, as well as advisory functions with respect to questions arising under part IV. Tariffs establishing joint rates between freight forwarders and common carriers by motor vehicle will be handled by the Section of Traffic of our Bureau of Motor Carriers, and all other tariffs by our Bureau of Traffic. Such matters as accounting, statistics, and enforcement will be handled by our various Bureaus charged with similar duties under other parts of the act, which should be able to absorb the additional work with few additions to personnel.

In inaugurating and carrying on our work with freight forwarders we shall make every effort to maintain close contact with the representatives of the freight forwarders and give them full opportunity to express their views upon proposed rules, regulations, and methods of administration prior to their adoption. The cooperative attitude of the forwarders has been gratifying.

WORK OF THE LEGISLATIVE COMMITTEE

During the second session of the Seventy-seventh Congress and to the date of this report, 36 reports on bills or resolutions were submitted on behalf of our Legislative Committee or of the Commission. These reports were directed to the chairman of the Senate or House committee from which came the request for the report, and contained criticisms, suggestions, and recommendations in regard to the bill or resolution in question. The committee also made a number of reports to the Bureau of the Budget with respect to enrolled enactments of Congress, communications from various departments of the Government to that Bureau concerning proposed legislation having to do directly or indirectly with the jurisdiction of this Commission, and certain proposed executive orders in which questions affecting transportation were involved.

Members of our Legislative Committee were also called to appear and testify before Senate and House committees in regard to several

bills affecting transportation. In one such instance, namely, the hearings before a subcommittee of the Senate Committee on Interstate Commerce relating to S. J. Res. 147, the Chairman of the Commission presented an extensive statement showing the history and operation of railroad demurrage rules. The Commissioner in charge of the Bureau of Service also appeared as a witness, as to the practical working out of the existing rules.

LEGISLATIVE RECOMMENDATIONS DEFERRED

The Transportation Act of 1940 has now been in effect little more than 2 years. It recast important provisions of law relating to rail and motor carriers and established regulation of carriers by water. During this year, part IV establishing a system of regulation of freight forwarders was enacted. As we have indicated above, transportation is now, and for some time past has been, devoted very largely to the prosecution of the war. This must necessarily be so for "the duration." It follows that experience during this period has little relation to normal conditions. Under these circumstances, we have concluded that we will not recommend at this time any changes in existing law.

CLYDE B. AITCHISON, *Chairman*.

JOSEPH B. EASTMAN.

CLAUDE R. PORTER.

WILLIAM E. LEE.

CHARLES D. MAHAFFIE.

CARROLL MILLER.

WALTER M. W. SPLAWN.

JOHN L. ROGERS.

J. HADEN ALLDREDGE.

WILLIAM J. PATTERSON.

J. MONROE JOHNSON.

APPENDIX A

SUMMARY OF INDICTMENTS RETURNED AND COMPLAINTS AND INFORMATIONS FILED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1941, AND OCTOBER 31, 1942, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, AND THE ELKINS, BILLS OF LADING, AND TRANSPORTATION OF EXPLOSIVES ACTS

United States v. Daniel Arena, northern district of California. April 13, 1942, indictment charging soliciting and receiving concessions obtained by means of furnishing false reports of weights; 10 counts.

United States v. Atchison, T. & S. F. Ry. Co., southern district of California. August 10, 1942, information charging willful destruction of records; 10 counts.

United States v. Athens Stove Works, Inc., eastern district of Tennessee. May 22, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used, and through payment of charges on basis of minimum weight provided for shorter car than that used; 3 counts.

United States v. Bassett Furniture Industries, Inc., western district of Virginia. November 28, 1941, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 4 counts.

United States v. Bernhardt Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 6 counts.

United States v. Caldwell Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 1 count.

United States v. Carolina & N. W. Ry. Co., western district of North Carolina. February 11, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills; 10 counts.

United States v. Chicago, B. & Q. R. Co., northern district of Illinois. July 3, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished; 1 count.

United States v. Danville & W. Ry. Co., western district of Virginia. November 28, 1941, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished; 1 count.

United States v. Dixie Foundry Co., Inc., eastern district of Tennessee. May 22, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 3 counts.

United States v. Drexel Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 8 counts.

United States v. Hardwick Stove Co., Inc., eastern district of Tennessee. May 22, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 3 counts.

United States v. Hibriten Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 2 counts.

United States v. High Point, T. & D. R. Co., middle district of North Carolina. March 5, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills; 4 counts.

United States v. Illinois Central R. Co., northern district of Illinois. July 3, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished; 2 counts.

United States v. International Paper Co., western district of Louisiana. December 10, 1941, information charging acceptance of concessions in respect to interstate shipments transported by a carrier from whom it received donations of land; 10 counts.

United States v. Kent-Coffey Manufacturing Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 4 counts.

United States v. Jacob Krasnow, northern district of California. April 13, 1942, indictment charging soliciting and receiving concessions obtained by means of furnishing false reports of weights; 6 counts.

United States v. Lenoir Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 2 counts.

United States v. Louisiana & A. R. Co., western district of Louisiana. December 10, 1941, information charging granting of concessions through donations of land to a shipper; 10 counts.

United States v. Louisville & N. R. Co., eastern district of Tennessee. May 22, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and through collection of charges on basis of minimum weight provided for shorter car than that furnished; 5 counts.

United States v. Morganton Furniture Co., western district of North Carolina. February 11, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 3 counts.

United States v. Morris Novelty Furniture Corp., western district of Virginia. November 28, 1941, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 1 count.

United States v. Norfolk & W. Ry. Co., western district of Virginia. November 28, 1941, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills; 8 counts.

United States v. Howard S. Palmer et al., Trustees, New York, N. H. & H. R. Co., district of Connecticut. February 10, 1942, indictment charging granting of concessions by making deliveries of order-notify shipments in advance of surrender of original bills of lading; 12 counts.

United States v. Hyman Robinson, Sidney R. Robinson, and Arthur C. Robinson, northern district of Iowa. June 24, 1942, indictment charging soliciting

and accepting concessions obtained through manipulation of transit privileges on scrap iron; 20 counts.

United States v. Hyman Robinson, Sidney R. Robinson, and Arthur C. Robinson, northern district of Iowa. June 24, 1942, indictment charging soliciting and receiving concessions obtained through false representations that shipments of scrap iron tendered for transportation free of charge consisted of railroad-company material; 30 counts.

United States v. Geo. D. Roper Corp., northern district of Illinois. July 3, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 3 counts.

United States v. Henry A. Scandrett et al., Trustees, Chicago, M., St. P. & P. R. Co., northern district of Illinois. July 3, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished; 1 count.

United States v. Southern Ry. Co., western district of North Carolina. February 11, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills; 20 counts.

United States v. Southern Ry. Co., eastern district of Tennessee. May 22, 1942, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished; 7 counts.

United States v. L. C. Sprague, Receiver, Minneapolis & St. L. R. Co., and J. W. Devins, northern district of Iowa. June 24, 1942, indictment charging granting of concessions through failure to observe published tariffs; 30 counts.

United States v. Tom Strangio and Al Strangio, northern district of California. April 13, 1942, indictment charging soliciting and receiving concessions, and conspiracy so to do, obtained by means of furnishing false reports of weights; 21 counts.

United States v. Taylor Refining Co., southern district of Texas. August 26, 1942, indictment charging failure to comply with regulations governing the transportation of dangerous articles; 3 counts.

United States v. Thomasville Chair Co., middle district of North Carolina. March 5, 1942, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used; 3 counts.

United States v. Charles M. Thomson, Trustee, Chicago & N. W. Ry. Co., northern district of Illinois. October 5, 1942, complaint charging violations of Commission's Service Order No. 71; 18 counts.

United States v. Miller VanderPlas, western district of Michigan. May 11, 1942, indictment charging negotiation and transferring for value false bills of lading; 3 counts.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1941, AND OCTOBER 31, 1942, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, AND THE ELKINS, BILLS OF LADING AND TRANSPORTATION OF EXPLOSIVES ACTS.

United States v. Chester Anderson, Frank J. Cummer, and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Daniel Arena, northern district of California, indictment charging soliciting and receiving concessions obtained by means of furnishing false reports of weights. April 29, 1942, plea of guilty entered and fine of \$750 imposed; defendant placed on probation for 3 years.

United States v. Atchison, T. & S. F. Ry. Co., southern district of California, information charging willful destruction of records. August 10, 1942, plea of *nolo contendere* entered and fine of \$10,000 imposed.

United States v. Athens Stove Works, Inc., eastern district of Tennessee, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used, and through payment of charges on basis of minimum weight provided for shorter car than that used. May 28, 1942, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Bassett Furniture Industries, Inc., western district of Virginia, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. November 28, 1941, plea of guilty entered and fine of \$4,000 imposed.

United States v. Worth Beggs and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Bernhardt Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$6,000 imposed.

United States v. C. G. Bianchi and W. A. Simonson, northern district of California, indictment charging acceptance of concessions through furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Bianchi sentenced to pay fine of \$1,500 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. R. L. Bocler and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Albert Broback and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Caldwell Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$1,000 imposed.

United States v. Carolina & N. W. Ry. Co., western district of North Carolina, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills. February 26, 1942, plea of guilty entered and fine of \$10,000 imposed.

United States v. A. B. Casper Co. and William D. Morgan, district of Minnesota, indictment charging receiving of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. William Chesky, northern district of Illinois, indictment charging soliciting and receiving concessions by obtaining delivery of advise shipments in advance of surrender of delivery order. November 23, 1941, plea of guilty entered, sentence to serve 30 days in jail imposed, which was suspended, and defendant placed on probation for 1 year.

United States v. Chicago, B. & Q. R. Co., northern district of Illinois, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished. July 3, 1942, plea of *nolo contendere* entered and fine of \$1,000 imposed.

United States v. Philip Chinchio and R. E. Simonson, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy so to do, by means of furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Chinchio sentenced to pay fine of \$5,000 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. Philip Coniglio and W. A. Simonson, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy

so to do, obtained by means of furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Coniglio sentenced to pay fine of \$5,000 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. Angelo J. Costa and W. A. Simonson, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy so to do, by means of furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Costa sentenced to pay fine of \$3,500 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. Danville & W. Ry. Co., western district of Virginia, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished. November 28, 1941, plea of guilty entered and fine of \$1,000 imposed.

United States v. Dixie Foundry Co., Inc., eastern district of Tennessee, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. May 28, 1942, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Drexel Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$8,000 imposed.

United States v. George F. Fish, Inc., northern district of California, indictment charging solicitation and acceptance of concessions obtained by means of false claims. February 6, 1942, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Gerstein & Co. and Louis A. Gerstein, northern district of Illinois, indictment charging soliciting and receiving concessions by obtaining delivery of advise shipments in advance of surrender of delivery order. November 7, 1941, pleas of *nolo contendere* entered and fine of \$1,000 as to each defendant imposed.

United States v. Hardwick Stove Co., Inc., eastern district of Tennessee, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. May 23, 1942, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Hibriten Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$2,000 imposed.

United States v. Roy Higgins, George L. Higgins, and William D. Morgan, district of Minnesota, indictment charging soliciting and accepting concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. High Point, T. & D. R. Co., middle district of North Carolina, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills. March 5, 1942, plea of guilty entered and fine of \$3,500 imposed.

United States v. Illinois Central R. Co., northern district of Illinois, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished. July 3, 1942, plea of *nolo contendere* entered and fine of \$2,000 imposed.

United States v. Illinois Central R. Co. and W. Haywood, northern district of Illinois, indictment charging granting of concessions by making deliveries of advise shipments in advance of surrender of delivery order. January 9, 1942, pleas of *nolo contendere* entered and fines of \$8,000 and \$1,000, respectively, imposed.

United States v. International Paper Co., western district of Louisiana, information charging acceptance of rebates and concessions in respect to ship-

ments transported for it by a railroad from whom it received donations of land. December 10, 1941, plea of guilty entered and fine of \$10,000 imposed.

United States v. Elmer Johnson and Harry A. Hopkins, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Kent-Coffey Manufacturing Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$4,000 imposed.

United States v. Jacob Krasnow, northern district of California, indictment charging soliciting and receiving concessions obtained by means of furnishing false reports of weights. April 29, 1942, plea of guilty entered and fine of \$500 imposed; defendant placed on probation for 3 years.

United States v. Lenoir Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$2,000 imposed.

United States v. Vito Loconte and R. E. Simonson, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy so to do, by means of furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Loconte sentenced to pay fine of \$1,000 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. Louisiana & A. R. Co., western district of Louisiana, information charging granting of rebates and concessions through donations of land to a shipper. December 10, 1941, plea of guilty entered and fine of \$10,000 imposed.

United States v. Louisville & N. R. Co., eastern district of Tennessee, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and through collection of charges on basis of minimum weight provided for shorter car than that furnished. May 28, 1942, plea of *nolo contendere* entered and fine of \$5,000 imposed.

United States v. Morganton Furniture Co., western district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. February 26, 1942, plea of guilty entered and fine of \$3,000 imposed.

United States v. Morris Novelty Furniture Corp., western district of Virginia, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. November 28, 1941, plea of guilty entered and fine of \$1,000 imposed.

United States v. Norfolk & W. Ry. Co., western district of Virginia, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills. November 28, 1941, plea of guilty entered and fine of \$8,000 imposed.

United States v. O. J. Odegard and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. O. J. Odegard, E. Bernier & Sons, Inc., and William D. Morgan, district of Minnesota, indictment charging conspiracy to solicit concessions through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Pacific Fruit Exp. Co., northern district of Illinois, indictment charging granting of concessions through delivery of advise shipments in advance of surrender of delivery order. November 7, 1941, plea of guilty entered and fine of \$5,000 imposed.

United States v. Howard S. Palmer et al., Trustees; New York, N. H. & H. R. Co., district of Connecticut, indictment charging granting of concessions by making

deliveries of order-notify shipments in advance of surrender of original bills of lading. April 6, 1942, plea of *nolo contendere* entered and fine of \$6,000 imposed.

United States v. Norman B. Pitcairn and Frank C. Nicodemus, Jr., Receivers, Wabash Ry. Co., Sidney King, and R. A. Walton, northern district of Illinois, indictment charging granting of concessions through delivery of advise shipments in advance of surrender of delivery order. November 7, 1941, pleas of guilty entered and fines of \$10,000 as to defendant receivers and \$2,000 as to each of individual defendants imposed.

United States v. Hyman Robinson, Sidney R. Robinson, and Arthur C. Robinson, northern district of Iowa, indictment charging soliciting and accepting concessions obtained through manipulation of transit privileges on scrap iron. September 22, 1942, pleas of guilty entered and fines of \$5,000 as to each defendant imposed.

United States v. Hyman Robinson, Sidney R. Robinson, and Arthur C. Robinson, northern district of Iowa, indictment charging soliciting and receiving concessions obtained through false representations that shipments of scrap iron tendered for transportation free of charge consisted of railroad-company material. September 22, 1942, *nolle prosequi* entered.

United States v. Geo. D. Roper Corp., northern district of Illinois, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually used. July 3, 1942, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Ryan Potato Co. and William D. Morgan, district of Minnesota, indictment charging acceptance of concessions obtained through manipulation of transit privileges on potatoes. November 8, 1941, pleas of *nolo contendere* entered, sentences suspended, and defendants placed on probation for 15 months.

United States v. Henry A. Scandrett et al., Trustees, Chicago, M., St. P. & P. R. Co., northern district of Illinois, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished. July 3, 1942, plea of *nolo contendere* entered and fine of \$1,500 imposed.

United States v. William Shapiro, Inc., northern district of California, indictment charging solicitation and acceptance of concessions obtained by means of false claims. January 16, 1942, plea of *nolo contendere* entered and fine of \$6,000 imposed.

United States v. Southern Ry. Co., western district of North Carolina, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished, and the making of false entries in waybills. February 26, 1942, plea of guilty entered and fine of \$27,000 imposed.

United States v. Southern Ry. Co., eastern district of Tennessee, information charging granting of concessions through collection of charges on basis of minimum weight provided for one long car instead of on basis of minimum weights provided for two shorter cars actually furnished. May 28, 1942, plea of *nolo contendere* entered and fine of \$7,000 imposed.

United States v. Tom Strangio and Al Strangio, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy so to do, obtained by means of furnishing false reports of weights. April 29, 1942, plea of guilty entered on behalf of Tom Strangio and fine of \$1,900 imposed and defendant placed on probation for 3 years; *nolle prosequi* entered on behalf of both defendants as to charge of conspiracy and on behalf of Al Strangio as to substantive offense.

United States v. W. Sherman Swain, middle district of North Carolina, indictment charging forgery of bills of lading. December 1, 1941, plea of guilty entered, fine of \$400 imposed, and defendant placed on probation for 2 years.

United States v. Taylor Refining Co., southern district of Texas, indictment charging failure to comply with regulations governing the transportation of dangerous articles. October 23, 1942, plea of *nolo contendere* entered and fine of \$2,500 imposed.

United States v. Thomasville Chair Co., middle district of North Carolina, information charging acceptance of concessions obtained through payment of charges on basis of minimum weight provided for one long car instead of on

basis of minimum weights provided for two shorter cars actually used. March 5, 1942, plea of guilty entered and fine of \$3,000 imposed.

United States v. Charles M. Thomson, Trustee, Chicago & N. W. Ry. Co., northern district of Illinois, complaint charging violations of Commission's Service Order No. 71. October 5, 1942, confession of judgment entered and penalty of \$2,700 imposed.

United States v. Patsy Ursini and R. E. Simonson, northern district of California, indictment charging soliciting and receiving concessions, and conspiracy so to do, by means of furnishing false reports of weights. November 5, 1941, pleas of guilty entered and defendant Ursini sentenced to pay fine of \$1,000 and placed on probation for 3 years; defendant Simonson sentenced to 1 year's imprisonment.

United States v. Miller VanderPlas, western district of Michigan, indictment charging negotiation and transferring for value false bills of lading. May 29, 1942, plea of guilty entered and sentence of 18 months' imprisonment imposed; defendant to be placed on probation for 5 years at expiration of confinement.

United States v. Samuel Visse, northern district of Illinois, indictment charging soliciting and receiving concessions through obtaining delivery of advise shipments in advance of surrender of delivery order. November 28, 1941, plea of guilty entered, sentence to serve 30 days in jail imposed, which was suspended, and defendant placed on probation for 1 year.

United States v. Yeckes-Eichenbaum, Inc., northern district of California, indictment charging solicitation and acceptance of concessions obtained by means of false claims. December 12, 1941, plea of *nolo contendere* entered and fine of \$10,000 imposed.

APPENDIX B

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS AND REQUIREMENTS OF THE COMMISSION AND STATUS ON OCTOBER 31, 1942, OF CASES PENDING IN THE COURTS

CASES DECIDED BY THE COURTS SINCE OCTOBER 31, 1941

SUPREME COURT OF THE UNITED STATES

Ready Truck Lines, Inc., v. United States, 314 U. S. 580.

For case history see 1941 Annual Report, page 155. On November 10, 1941, opinion of district court was affirmed on authority of *United States v. Maher*, 307 U. S. 148.

Board of Trade of Kansas City, Mo., v. United States, 314 U. S. 534.

For case history see 1941 Annual Report, page 154. On January 5, 1942, decree of district court was affirmed.

Alton R. Co. v. United States, 315 U. S. 15.

For case history see 1941 Annual Report, page 154. On January 12, 1942, Commission's order was sustained, except as to Arkansas.

United States v. N. E. Rosenblum Truck Lines, Inc., 315 U. S. 50.

For case history see 1941 Annual Report, page 154. On January 19, 1942, decree of district court was reversed, and Commission's order sustained.

United States v. J. B. Margolies, dba Manhattan Truck Lines, 315 U. S. 50.

For case history see 1941 Annual Report, page 154. On January 19, 1942, decree of district court was reversed, and Commission's order sustained.

Lubetich, dba Pacific Refrigerator Motor Lines, v. United States, 315 U. S. 57.

For case history see 1941 Annual Report, page 155. On January 19, 1942, the decree of the lower court sustaining the Commission's order, was affirmed.

United States v. Carolina Freight Carrier's Corp., 315 U. S. 475.

For case history see 1941 Annual Report, page 155. On March 2, 1942, decree of district court was affirmed, and Commission's order set aside.

Interstate Commerce Comm. v. Railway Labor Executives' Assn., 315 U. S. 373.

For case history see 1941 Annual Report, page 154. On March 2, 1942, decree of district court was affirmed and Commission held to have authority to consider conditions sought by appellee.

Howard Hall Co., Inc., v. United States, 315 U. S. 495.

For case history see 1941 Annual Report, page 155. On March 2, 1942, decree of district court was reversed and Commission's order set aside.

Public Service Comm. of Maryland v. United States, 315 U. S. 381.

For case history see 1941 Annual Report, page 162. On October 13, 1941, complaint was dismissed and injunction denied (41 Fed. Supp. 309), and on November 13, 1941, appeal was docketed in Supreme Court. On March 2, 1942, Commission's report and certificate were sustained.

McArthur, dba Anaconda Van Lines, v. United States, 315 U. S. 787.

For case history see 1941 Annual Report, page 160. On November 10, 1941, Commission's order was sustained (44 Fed. Supp. 697), and on February 13, 1942, appeal was docketed in Supreme Court. On March 30, 1942, judgment of district court was affirmed *per curiam*.

Gregg Cartage & Storage Co. v. United States, 316 U. S. 74.

For case history see 1941 Annual Report, page 154. On April 13, 1942, decree of district court sustaining Commission's order was affirmed.

Moore, dba Moore Motor Freight Lines, v. United States, 316 U. S. 642.

For case history see 1941 Annual Report, page 160. On November 17, 1941, the Commission's order was sustained (41 Fed. Supp. 786), and on April 13, 1942, decree of district court was affirmed *per curiam*.

Suift & Co. v. United States, 316 U. S. 216.

For case history see 1941 Annual Report, page 155. On May 4, 1942, the Commission's order was sustained.

Northern Pac. Ry. Co. v. United States, 316 U. S. 346.

For case history see 1941 Annual Report, page 161. On October 31, 1941, the Commission's order was sustained (41 Fed. Supp. 439). The case was docketed on appeal to the Supreme Court on February 6, 1942, and on May 25, 1942, decree of district court was affirmed.

Davidson Transfer & Storage Co. v. United States, 317 U. S. ———.

For case history see 1941 Annual Report, page 161. On December 12, 1941, the injunction was denied and complaint dismissed, and on October 12, 1942, the judgment of the district court was affirmed *per curiam*.

A. W. Stickle & Co. v. Interstate Commerce Commission, 317 U. S. ———.

Petition for writ of certiorari to review decision of Circuit Court of Appeals, Tenth Circuit (128 Fed. (2d) 155), affirming decision of United States District Court, Eastern District of Oklahoma, granting injunction upon petition of Commission, and holding defendant to be a common carrier under section 203 (a) (14) and not a private carrier. On July 8, 1942, petition for writ of certiorari was filed by Stickle & Co., to which the Commission filed a reply on August 15, 1942, and on October 12, 1942, the petition was denied.

CIRCUIT COURT OF APPEALS, SEVENTH CIRCUIT

Group of Institutional Investors v. Chicago, M., St. P. & P. R. Co.

Reconstruction Finance Corp. v. Chicago, M., St. P. & P. R. Co.

For case history see 1941 Annual Report, pages 153-154. On December 4, 1941, decree of district court approving plan was reversed by Circuit Court of Appeals, Seventh Circuit (124 Fed. (2d) 754), and petitions for writs of certiorari were filed in United States Supreme Court on January 17, 1942, and were granted on June 8, 1942. On October 14-15, 1942, the cases were argued and submitted for decision.

Standard Steel Works v. Chicago A. & E. R. Co.

City National Bank & Trust Co. of Chicago, Trustee, v. Chicago A. & E. R. Co., Albert A. Sprague, Receiver.

For case history see 1941 Annual Report, page 154. On December 9, 1941, decree of district court was affirmed (124 Fed. (2d) 767), and on April 1, 1942, the cases were discontinued because petitions for writs of certiorari were not filed in United States Supreme Court within time prescribed by law.

Chicago & N. W. Ry. Co. v. Mutual Savings Bank Group Committee.

For case history see 1941 Annual Report, page 154. On February 9, 1942, the plan of reorganization approved by the district court was affirmed (126 Fed. (2d) 351), and on March 4, 1942, petition of debtor for writ of certiorari was filed in United States Supreme Court.

In the Matter of Chicago & N. W. Ry. Co., Debtor.

For case history see 1941 Annual Report, pages 158-159. On February 9, 1942, order of circuit court affirming orders and decrees approving and confirming plan of reorganization was entered (126 Fed. (2d) 351), and on March 4, 1942, petition of debtor for writ of certiorari was filed in United States Supreme Court.

CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

In the Matter of St. Louis-S. F. Ry. Co., Debtor.

For case history see 1941 Annual Report, page 156. On March 10, 1942, the case was argued and submitted, and on June 10, 1942, judgment of the district court was affirmed. 129 Fed. (2d) 122. On July 25, 1942, decree of court was entered making an award to Bankers Trust Co. as mortgage trustee for services and expenses in connection with the proceeding and plan without reference to the maximum limits fixed by the Commission under section 77 (c) (12) of the Bankruptcy Act. On October 26, 1942, the Supreme Court granted petition for certiorari.

CIRCUIT COURT OF APPEALS, NINTH CIRCUIT

Institutional Bondholders Committee v. Western Pac. R. Corp.

Reconstruction Finance Corp. v. Western Pac. R. Corp.

For a history of these cases, see page 163, this volume.

CIRCUIT COURT OF APPEALS, TENTH CIRCUIT

A. W. Stickle & Co. v. Interstate Commerce Commission.

For case history, see page 158, this volume.

DISTRICT COURTS OF THE UNITED STATES

Burlington Truckers, Inc., v. United States, middle district of North Carolina.
For case history, see page 161, this volume.

Atlantic Lumber Corp. v. Southern Pac. Co. and Interstate Commerce Commission, district of Oregon.

For case history, see page 164, this volume.

McCracken v. United States, district of Oregon.

For case history, see page 164, this volume.

Beasley, dba B. & D. Trans. Co., v. United States, eastern district of Missouri.

For case history, see page 165, this volume.

Drake v. United States, northern district of Texas.

For case history, see page 163, this volume.

Drake v. United States, northern district of Illinois.

For case history, see page 165, this volume.

Detroit-Pittsburgh Motor Freight, Inc., v. United States, northern district of Ohio.

For case history see 1941 Annual Report, page 161. On March 25, 1942, decree was entered by the court setting aside Commission's order and remanding proceeding for further consideration in conformity with decisions of Supreme Court of March 2, 1942, in *Carolina Freight Carriers and Howard Hall cases*. (315 U. S. 475, 495.) The Commission reopened the case and no appeal was taken.

Calvin v. United States, eastern district of Missouri.

For case history see page 162, this volume.

Inland Waterways Corp. v. United States, northern district of Illinois.

Cargill, Inc., v. United States, northern district of Illinois.

Suits to set aside Commission's order of December 1, 1941, vacating order of suspension on grain proportionals ex-barge to official territory, Investigation and Suspension Docket No. 4718 (246 I. C. C. 353; 248 I. C. C. 307). On December 16, 1941, the complaints were filed, and on April 16, 1942, the Commission's order was set aside. (44 Fed. Supp. 368.) On June 24, 1942, the cases were docketed on appeal to the Supreme Court.

In the Matter of New York, N. H. & H. Reorganization, district of Connecticut.

For case history see 1941 Annual Report, page 160. On June 3, 1942, the court sustained the Commission's claim that jurisdiction of the court to make allowances to mortgage trustees must be exercised within the maximum limits prescribed by the Commission under section 77 (c) (12) of the Bankruptcy Act (46 Fed. Supp. 214). On July 28, 1942, the case was appealed to Circuit Court of Appeals, Second Circuit.

Ziffrin, Inc., v. United States, southern district of Indiana.

Suit to set aside Commission's order of May 29, 1941, in Docket No. MC-2511, *Ziffrin, Inc.*, Contract Carrier Application, denying application for "grandfather" permit because of dual operation in violation of section 210 of the act. (28 M. C. C. 683). On October 21, 1941, the complaint was filed, and on June 4, 1942, the Commission's order was sustained. On July 20, 1942, the case was docketed on appeal to the Supreme Court.

McArthur, dba Anaconda Van Lines, northern district of Illinois.

For case history see page 157, this volume.

Moore, dba Moore Motor Freight Lines, v. United States, district of Minnesota.

For case history see page 157, this volume.

Davidson Transfer & Storage Co. v. United States, eastern district of Pennsylvania.

For case history, see page 158, this volume.

Cook and Koch, dba Koch's Motor Service, v. United States, northern district of Illinois.

For case history, see page 161, this volume.

Ziffrin Truck Lines, Inc., v. United States, southern district of Indiana.

For case history, see page 162, this volume.

Dearman v. United States, northern district of Ohio.

For case history, see page 162, this volume.

Crown Coach Co. v. United States, western district of Missouri.

For case history, see page 162, this volume.

Empire Trails, Inc., v. United States, District of Columbia.

For case history see page 162, this volume.

Fordham Bus Corp. v. United States, southern district of New York.

For case history see page 161, this volume.

Nebraska ex rel. Johnson, Atty. Genl., v. United States, northern district of Illinois.

Suit to set aside Commission's order of December 20, 1941, in Finance Docket No. 13172, authorizing Charles M. Thomson, trustee, Chicago & North Western Railway Co. to abandon its branch line of railroad from Linwood to Hastings, Nebr. (249 I. C. C. 725). On February 14, 1942, the petition was filed, and on June 8, 1942, the Commissioner's order was sustained. On September 16, 1942, the case was discontinued, defendants having advised the court that no appeal would be taken.

Doyle Transfer Co., Inc., v. United States, District of Columbia.

For case history see page 163, this volume.

Royal Cadillac Service, Inc., v. United States, southern district of New York.

Suit to set aside Commission's order of September 2, 1941, in Dockets Nos. MC-95462 and MC-95463, Royal Cadillac Service, Inc., New York, N. Y. (30 M. C. C. 469), wherein it was found that applicant had failed to establish "grandfather" rights under section 206 (a) to a certificate as a common carrier by motor vehicle of passengers and their baggage between New York City and Roscoe, N. Y., over a specified route through New Jersey. On March 4, 1942, the complaint was filed, and on July 21, 1942, the injunction was denied, and the proceeding remanded to the Commission to pass on the issue of public convenience and necessity. On September 14, 1942, stay order pending determination of appeal was granted, and on September 26, 1942, the appeal was docketed in the Supreme Court.

W. H. Tomkins Co. v. United States, middle district of Tennessee.

For case history see page 162, this volume.

L. T. Barringer & Co. v. United States, western district of Tennessee, western division.

Suit to set aside Commission's order of January 29, 1942, in Investigation and Suspension Docket No. 4981, Loading Cotton in Oklahoma, finding that the elimination of the rail carrier's loading charge on carload shipments of cotton from points in Oklahoma on the lines of the Santa Fe and certain other carriers to Gulf ports is just and reasonable, and not otherwise violative of the act. 248 I. C. C. 643. On May 11, 1942, the complaint was filed, and on July 20, 1942, *per curiam* opinion, findings of fact and conclusions of law sustaining the Commission's order were entered by the court.

Noble, dba Noble Transit Co., v. United States, district of Minnesota, third division.

Suit to set aside Commission's order of May 13, 1941, in Docket No. MC-70830, John F. Noble Contract Carrier Application, wherein the Commission limited commodities and territory in the grant of a permit under sec. 209 (a) and denied authority as to a contract entered into before July 1, 1935, where actual operations were not begun until 1936 (28 M. C. C. 653). On November 10, 1941, the complaint was filed, and on July 22, 1942, the Commission's order was sustained and the complaint dismissed (45 Fed. Supp. 793). On November 4, 1942, the case was docketed on appeal to the Supreme Court.

Columbus & G. Ry. Co. v. United States, northern district of Mississippi, eastern division.

Suit to set aside Commission's order of January 3, 1942, in Docket No. 28590, Cottonseed Allowances of Columbus & Greenville Railway Company, wherein the Commission held unlawful cut-back rates on cottonseed as applied to inbound shipments to milling points via carriers other than the publishing carrier. 248 I. C. C. 441. On April 3, 1942, the complaint was filed, and on July 31, 1942, plaintiff's contentions were sustained, and the Commission's order held invalid.

CASES DISCONTINUED SINCE OCTOBER 31, 1941

CIRCUIT COURT OF APPEALS, SEVENTH CIRCUIT

Chicago & N. W. Ry. Co. v. Life Insurance Group Committee.

For case history see 1941 Annual Report, page 154. On March 31, 1942, the case was discontinued because petition for writ of certiorari was not filed in Supreme Court within time prescribed by law.

Standard Steel Works v. Chicago, A. & E. R. Co.

City National Bank & Trust Co. of Chicago, Trustee, v. Chicago A. & E. R. Co. and Albert A. Sprague, Receiver.

For case history see 1941 Annual Report, page 154, and page 158, this volume.

CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Missouri Pac. R. Co., Debtor, v. Protective Committee for Missouri Pacific First and Refunding Mortgage Bonds.

Appeals from order of district court approving plan of reorganization for Missouri Pacific Ry. Co. On September 26, 1941, motion of debtor-appellant, and supporting motions, for order staying submission of plan of reorganization, were filed. On October 17, 1942, the case was orally argued, and order of dismissal entered. On May 1, 1942, the case was discontinued, the Commission not being a party to further proceedings.

DISTRICT COURTS OF THE UNITED STATES

Swedesboro Transp. Co. v. United States, district of New Jersey.

For case history see 1941 Annual Report, page 160. On November 10, 1941, the case was discontinued, proceedings having been reopened by the Commission for further hearing and reconsideration.

City of Jersey City v. United States, district of New Jersey.

For case history see 1938 Annual Report, page 136, and 1940 Annual Report, page 144. On November 15, 1941, the case was discontinued, having been dismissed by the court on plaintiff's motion.

Meyer, dba Meyer Transport Co., v. United States, district of Illinois.

For case history see 1941 Annual Report, page 155. On December 1, 1941, the case was discontinued because not appealed within the time prescribed by law.

Grove v. United States, middle district of Pennsylvania.

For case history see 1941 Annual Report, page 155. On December 1, 1941, the case was discontinued because not appealed within the time prescribed by law.

Woodruff v. United States, district of Connecticut.

For case history see 1941 Annual Report, page 156. On December 24, 1941, the case was discontinued because not appealed within the time prescribed by law.

Kline, dba Independent Truckers Assn., v. United States, district of Nebraska.

For case history see 1941 Annual Report, page 160. On October 28, 1941, the Commission's order was set aside (41 Fed. Supp. 577), and on January 2, 1942, the case was discontinued, proceedings having been reopened by the Commission for further hearing and reconsideration.

Johnson v. United States, district of Oregon.

For case history see 1941 Annual Report, page 159. On January 20, 1942, the case was discontinued because not appealed within the time prescribed by law.

Fordham Bus Corp. v. United States, southern district of New York.

For case history see 1941 Annual Report, page 160. On November 24, 1941, the Commission's order was sustained (41 Fed. Supp. 712), and on January 25, 1942, the case was discontinued because not appealed within the time prescribed by law.

Gill, dba Gill Transport Co., v. United States, eastern district of Arkansas.

For case history see 1939 Annual Report, page 150, and 1940 Annual Report, page 145. On February 11, 1942, advice was received that the case was dismissed by the court on January 3, 1940.

Wilson & Co., Inc., v. United States, northern district of Illinois.

For case history see 1941 Annual Report, page 159. On February 1, 1942, the case was discontinued because of the Commission's orders having been canceled.

Sprague, Receiver, Chicago N. S. & M. R. Co., v. Woll, U. S. Attorney, northern district of Illinois.

For case history see 1939 Annual Report, page 151, and 1940 Annual Report, page 145. On April 1, 1942, the case was discontinued on authority of decree of Circuit Court of Appeals, Seventh Circuit, in *Chicago Aurora & Elgin Ry. Labor Act case* (124 Fed. (2d) 767).

Cook and Koch, dba Koch's Motor Service, v. United States, northern district of Illinois.

For case history, see 1941 Annual Report, page 160.

On January 30, 1942, final decree dismissing the complaint was entered by the court, and on April 1, 1942, the case was discontinued because not appealed within the time prescribed by law.

Burlington Truckers, Inc., v. United States, middle district of North Carolina.

Suit to set aside Commission's order of June 17, 1941, in Docket No. MC-2912 (Sub-Nos. 2 and 3), wherein the Commission denied plaintiff a "grandfather"

certificate under sections 206 (a) and 209 (a) of the Motor Carrier Act (29 M. C. C. 345). On December 3, 1941, the complaint was filed, and on February 10, 1942, the Commission's order was sustained. On April 15, 1942, the case was discontinued because not appealed within the time prescribed by law.

Chicago & N. W. Ry. Co. v. United States, northern district of Illinois.

For case history see 1941 Annual Report, page 155. On May 1, 1942, the case was discontinued, no further action having been taken by plaintiff to appeal.

Crown Coach Co. v. United States, western district of Missouri.

For case history see 1941 Annual Report, page 161. On March 12, 1942, the Commission's order was sustained (44 Fed. Supp. 547), and on May 15, 1942, the case was discontinued because not appealed within the time prescribed by law.

In the Matter of Fort Dodge, Des M. & S. R. Co., debtor, southern district of Iowa.

For case history see 1941 Annual Report, page 156. On May 1, 1942, the case was discontinued, no further action having been taken by petitioner.

Ziffrin Truck Lines v. United States, southern district of Indiana.

For case history see 1941 Annual Report, page 161. On February 9, 1942, the Commission's order was sustained, and on May 10, 1942, the case was discontinued because not appealed within the time prescribed by law.

Calvin v. United States, eastern district of Missouri.

Suit to set aside Commission's order of May 27, 1941, in Docket No. MC-33634 (28 M. C. C. 755) finding that Calvin had failed to establish the right to a certificate or permit under section 206 (a) or 209 (a) of the Motor Carrier Act, and denying the application. On October 9, 1941, the petition was filed, and on November 19, 1941, after hearing an interlocutory injunction was granted. On April 7, 1942, the Commission's order was sustained and the injunction vacated (44 Fed. Supp. 684), and on May 1, 1942, the case was dismissed by the court on plaintiff's motion.

Dearman v. United States, northern district of Ohio.

For case history see 1941 Annual Report, page 162. On February 3, 1942, the Commission's order was sustained, and on May 15, 1942, the case was discontinued because not appealed within the time prescribed by law.

McCann v. United States, western district of Washington.

Suit to set aside Commission's order of July 8, 1941, as amended, in Docket Nos. MC-62012 and MC-62012 (Sub-No. 1), insofar as said order requires plaintiff to cease any of its operations as a common carrier by motor vehicle of general commodities in interstate commerce between Seattle and Tacoma, Wash., and Portland, Oreg., on the one hand, and points in eastern Oregon, eastern Washington, and the States of Idaho and Utah, on the other hand (29 M. C. C. 813). On December 29, 1941, the complaint was filed, and on March 25, 1942, the case was dismissed by the court on stipulation of the parties.

Empire Trails, Inc., v. United States, District of Columbia.

Suit to set aside Commission's order of April 4, 1941, in Docket No. MC-74791 (28 M. C. C. 373), wherein the Commission denied application for a certificate of convenience and necessity (subsequently transferred to No. MC-52772 (Sub-No. 1)). On November 5, 1941, the complaint was filed, and on March 19, 1942, the Commission's order was sustained. On June 15, 1942, the case was discontinued because not appealed within the time prescribed by law.

Smith, dba Smith Transfer Co., v. United States, western district of Virginia.

Suit to set aside Commission's order of September 13, 1941, denying in part application for "grandfather" certificate in Docket No. MC-55604. On March 31, 1942, the petition was filed, and on May 25, 1942, the case was dismissed on plaintiff's motion.

R. P. Thomas Trucking Co., Inc., v. United States, western district of Virginia.

Suit to set aside Commission's order of October 24, 1941, denying in part application for a "grandfather" certificate in Docket No. MC-64806 (30 M. C. C. 809). On March 31, 1942, the petition was filed, and on May 25, 1942, the case was dismissed on plaintiff's motion.

W. H. Tomkins Co. v. United States, middle district of Tennessee.

Suit to enjoin and set aside Commission's order of May 29, 1941, in Docket No. MC-20783, application of W. H. Tomkins Co. (29 M. C. C. 359), insofar as the Commission denied to plaintiff the right to operate as a common carrier of general commodities over irregular routes under section 206 (a) of the Motor Carrier Act. On December 8, 1941, the complaint was filed, and on July 7, 1942, the court entered findings of fact and conclusions of law, remanding the case to the Commission for further proceedings in conformity with the Supreme Court's opinion in the *Carolina Freight Carriers* and *Howard Hall* cases. On

August 1, 1942, the case was discontinued, the Commission having reopened it for further proceedings.

Doyle Transfer Co., Inc., v. United States, District of Columbia.

Suit to set aside Commission's order of June 5, 1941, in Docket No. MC-925, which denied plaintiff's application for contract-carrier certificate (29 M. C. C. 284). On March 17, 1942, the complaint was filed, and on June 19, 1942, decree dismissing suit was entered by the court (45 Fed. Supp. 691). On August 20, 1942, the case was discontinued because not appealed within the time prescribed by law.

Drake et al. v. United States, northern district of Texas.

Suit to enjoin Commission's order of March 21, 1942, in Ex Parte No. MC-35, (33 M. C. C. 69) removing exemption under the act to casual, occasional, or reciprocal transportation of passengers by motor vehicle in interstate commerce for compensation under section 203 (b) (9), when sold or procured through persons who engage in the business of travel bureaus. On August 17, 1942, bill of complaint was filed, and on August 24, 1942, the Commission's motion to dismiss because of improper venue was filed and argument thereon heard, after which the court entered an order granting plaintiff's motion for nonsuit because of improper venue.

Nebraska ex rel. Johnson, Atty. Genl., v. United States, northern district of Illinois.

For case history see page 160, this volume.

Steely Trucking Co. v. United States, northern district of Ohio.

Suit to set aside Commission's order of January 28, 1942, in Docket No. MC-67353, wherein Commission granted a certificate under the grandfather clause (1) to haul commodities, with exceptions, from Cleveland to Massillon, Ohio, and Pittsburgh, Pa., (2) to haul newspapers and advertising matter from Cleveland, Ohio, to Newport, Ky., and (3) to haul scrap brass and copper from Cleveland, Ohio, to Erie, Pa., all over certain routes, and return over same routes (31 M. C. C. 820). On July 21, 1942, the complaint was filed, and on August 10, 1942, the Commission vacated its order and reopened the case for reconsideration. On September 1, 1942, the court entered an order dismissing the case.

Alkire Bros. Truck Line, Inc., v. United States, western district of Missouri, western division.

Suit to set aside Commission's order of January 26, 1942, in Docket No. MC-1909, Alkire Bros. Truck Line Common Carrier Application, wherein the Commission found applicant entitled to continue operation as a common carrier by motor vehicle of specified commodities, between various points in Kansas, Illinois, Indiana, Iowa, and Missouri, over irregular routes, under section 206 (a) of the Motor Carrier Act. On June 23, 1942, the bill of complaint was filed, and on September 30, 1942, the case was dismissed by the court on stipulation of the parties.

Detroit-Pittsburgh Motor Freight, Inc., v. United States, northern district of Ohio.

For case history, see page 159, this volume.

CASES PENDING

SUPREME COURT OF THE UNITED STATES

Group of Institutional Investors v. Chicago, M., St. P. & P. R. Co.

Reconstruction Finance Corp. v. Chicago, M., St. P. & P. R. Co.

For case history see page 158, this volume.

Chicago & N. W. Ry. Co. v. Mutual Savings Bank Group Committee.

For case history see page 158, this volume.

In the Matter of Chicago & N. W. Ry. Co., Debtor.

For case history see page 158, this volume.

Ziffrin, Inc., v. United States.

For case history see page 159, this volume.

Interstate Commerce Commission v. Cargill, Inc.

For case history see page 159, this volume.

Interstate Commerce Commission v. Inland Waterways Corp.

For case history see page 159, this volume.

Institutional Bondholders Committee v. Western Pac. R. Corp.

Reconstruction Finance Corp. v. Western Pac. R. Corp.

In a proceeding for reorganization of Western Pacific Railroad Corporation, under section 77 of Bankruptcy Act, Commission's plan of reorganization was

certified to United States District Court, Southern District of California, Southern Division, on September 28, 1939, which court, by order dated August 15, 1940, approved Commission's plan. On appeal, Circuit Court of Appeals, Ninth Circuit, on November 28, 1941, entered a decree reversing the district court and remanded the proceeding to that court with directions to dismiss it, or in the court's discretion, or on motion of any party in interest, to refer plan back to Commission for further action (122 Fed. (2d) 807). On December 29, 1941, and at various dates thereafter, petitions for writs of certiorari to Circuit Court of Appeals, Ninth Circuit, were filed. On March 9, 1942, memorandum for Commission *sur* petitions for writs of certiorari was filed, and on April 27, 1942, certiorari was granted. On October 14-15, 1942, the cases were argued and submitted for decision.

Royal Cadillac Service, Inc., v. United States.

For case history see page 160, this volume.

In the Matter of St. Louis-San Francisco Ry. Co., Debtor.

For case history, see page 158, this volume.

CIRCUIT COURT OF APPEALS, SECOND CIRCUIT

In the Matter of New York, N. H. & H. Reorganization.

For case history, see 1941 Annual Report, page 160, and page 159, this volume.

DISTRICT COURTS OF THE UNITED STATES

Interstate Commerce Commission v. Youngstown & S. Ry. Co., northern district of Ohio.

For case history see 1939 Annual Report, page 150, and 1940 Annual Report, page 145.

Hoboken Mfrs. R. Co. v. United States, district of New Jersey.

For case history see 1940 Annual Report, page 146, and 1941 Annual Report, page 162. On April 18, 1942, the case was reargued and submitted for decision.

Inland Motor Freight v. United States, eastern district of Washington.

For case history see 1941 Annual Report, page 159.

Riss & Co., Inc., v. United States, northern district of Oklahoma.

For case history see 1941 Annual Report, page 159.

In the Matter of Chicago, R. I. & P. Ry. Co., Debtor, northern district of Illinois, eastern division.

For case history see 1941 Annual Report, page 160.

Atlantic Lumber Corp. v. Southern Pac. Co., district of Oregon.

For case history see 1941 Annual Report, page 161. On March 23, 1942, the case was argued and submitted for decision, and on October 26, 1942, the Commission's order was sustained and the cause of action dismissed.

The Menard Truck Co. v. United States, southern district of California, central division.

Suit to set aside and suspend Commission's order of June 16, 1941, in Docket No. MC-1821, Menard Truck Co. Common Carrier Application, insofar as it limits plaintiff's certificate as a common carrier by motor vehicle in interstate or foreign commerce of general commodities between points in Arizona and California over irregular routes to commodities transported by plaintiff's predecessor prior to June 1, 1935 (29 M. C. C. 561).

On December 24, 1941, the bill of complaint was filed, and on February 6, 1942, the Commission's answer was filed.

McCracken v. United States, district of Oregon.

Suit to set aside Commission's order of October 6, 1941, in Docket No. MC-17593, Pierce Auto Freight Lines, Inc., Common Carrier Application (30 M. C. C. 629), insofar as the Commission grants to Pierce Auto Company any operating rights between points north of Drain, Oreg., thus, it is alleged, permitting diversion of plaintiff's freight and resulting in unsound economic conditions in the motor-carrier industry. On January 15, 1942, the bill of complaint was filed, and on March 23, 1942, the case was argued and submitted for decision, and on October 30, 1942, the Commission's order was sustained.

Columbus & G. Ry. Co. v. United States, northern district of Mississippi, eastern division.

For case history see page 160, this volume.

Pennsylvania R. Co. v. United States, district of New Jersey.

Suit to set aside Commission's order of October 13, 1941, in Docket No. 25728, Hoboken Mfrs. R. Co. v. Abilene & S. Ry. Co., wherein the Commission prescribed the terms and conditions, including compensation, and period of time, upon which defendant railroads participating in through routes with Seatrain should be required to interchange their cars with Seatrain (206 I. C. C. 328; 237 I. C. C. 97; 248 I. C. C. 109). On March 26, 1942, the petition was filed, and on May 23, 1942, the case was argued and submitted for decision.

McLean Trucking Co., Inc., v. United States, southern district of New York.

Suit to set aside and annul Commission's order of March 16, 1942, in Docket Nos. MC-F-1612 and MC-F-1613, Associated Transport, Inc.—Control and Consolidation—Arrow Carrier Corp. et al., authorizing acquisition by Associated Transport, Inc., New York, N. Y., of control of Arrow Carrier Corp., Paterson, N. J., et al., through purchase of capital stock and consolidation into Associated Transport, Inc., and of the operating rights and properties of said carriers for ownership, management, and operation; also authorizing the issuance of a specified number of shares of preferred and common stock (38 M. C. C. 137). On May 5, 1942, the petition was filed, and on October 8, 1942, the case was argued and submitted for decision.

L. T. Barringer & Co. v. United States, western district of Tennessee.

For case history see page 160, this volume.

Wabash R. Co. v. United States, southern district of Illinois.

Suit to set aside Commission's order of May 6, 1941, in Ex Parte No. 104, part II, Terminal Allowances, A. E. Staley Mfg. Co. Terminal Allowance (245 I. C. C. 383), wherein the Commission found that the performance of service by rail carriers beyond the tracks found by the Commission to be convenient points for receipt and delivery of traffic of Staley Mfg. Co. at Decatur, Ill., to be a plant service for which the carriers are not compensated in their line-haul rates and requiring cancelation of tariffs providing for such service. On June 1, 1942, the bill of complaint was filed, and on July 6, 1942, the Commission's answer was filed.

Byers Transp. Co. v. United States, western district of Missouri.

Suit to set aside Commission's order of February 13, 1942, in Docket No. MC-F-1615, Powell Bros. Truck Lines, Inc.—Purchase—John B. Bryan, wherein the Commission permitted Powell Bros. Truck Lines, Inc., to purchase the operating rights and property of John B. Bryan, of Speed, Mo., subject to terms and conditions. 38 M. C. C. 104. On June 29, 1942, the petition was filed, and on October 1, 1942, the case was argued and submitted for decision.

Summit Fast Freight, Inc., v. United States, northern district of Ohio.

Suit to set aside Commission's order of April 1, 1942, in Docket No. MC-68715, Summit Fast Freight, Inc., Common Carrier Application (33 M. C. C. 145), wherein the Commission found that plaintiff, as successor in interest to W. H. Peters, had failed to establish the right to a certificate or permit under section 206 (a) or 209 (a) as a common or contract carrier by motor vehicle of general commodities (with exceptions) between points in Ohio, Indiana, Illinois, and Missouri, over regular and irregular routes, and denied the application. On July 31, 1942, the complaint was filed, and on August 31, 1942, the Commission's answer was filed.

Beasley, dba B. & D. Transp. Co., v. United States, eastern district of Missouri.

Suit to set aside Commission's order of March 12, 1942, in Docket No. MC-42273, Herman L. Beasley & Geo. Daly Contract Carrier Application, denying grandfather certificate. On August 12, 1942, the complaint was filed, and on October 2, 1942, the case was argued and submitted for decision. On October 27, 1942, the Commission's order was sustained.

St. Johnsbury Trucking Co. v. United States, district of Vermont.

Suit to set aside and enjoin Commission's order of February 21, 1942, in Dockets Nos. MC-61486 and MC-61487, which in part denies application for irregular-route certificate under section 206 (a) of the Motor Carrier Act. (32 M. C. C. 808). On August 15, 1942, the complaint was filed.

Drake v. United States, northern district of Illinois.

Suit to enjoin Commission's order of March 21, 1942, in Ex Parte No. MC-35 (33 M. C. C. 69), removing exemption under the act to casual, occasional, or reciprocal transportation of passengers by motor vehicle in interstate commerce for compensation under section 203 (b) (9), when sold or procured through persons who engage in the business of travel bureaus. On August

25, 1942, the complaint was filed, and on September 21, 1942, the case was argued and submitted for decision, and on October 27, 1942, the Commission's order was sustained.

Pacific Inland Tariff Bureau v. United States, western district of Washington.

Suit to set aside Commission's order of October 13, 1941, in Investigation and Suspension Docket No. 4648, All Freight to Pacific Coast (248 I. C. C. 73), holding that proposed all-commodity rates representing reductions on freight in general from western points to Pacific coast terminals, et cetera, were not shown to be unlawful. On August 26, 1942, the complaint was filed, and on October 17, 1942, the Commission's answer was filed.

Red Ball, Inc., v. United States, northern district of Oklahoma.

Suit to set aside Commission's order of June 3, 1941, in Docket No. MC-4920, Wallace Common Carrier Application, insofar as it denies to petitioner authority to operate as a motor common carrier, and transport commodities generally, between any or all points, and over irregular routes, within the States of Oklahoma, Arkansas, Louisiana, Texas, Colorado, Kansas, and Missouri (29 M. C. C. 828). On September 11, 1942, the complaint was filed, and on September 21, 1942, the case was argued and submitted for decision.

North-South Freightways, Inc., v. United States, southern district of New York.

Suit to set aside Commission's order of March 27, 1942, in Docket No. MC-77365, insofar as it denies to plaintiff authority to transport as a common carrier by motor vehicle general commodities between points in New York, New Jersey, Connecticut, and Pennsylvania, on the one hand, and all points in Mississippi, on the other hand, and to set aside Commission's order of August 11, 1942, in Docket No. MC-77365 (Sub-No. 3), denying temporary authority to act as a common carrier by motor vehicle (33 M. C. C. 174). On September 23, 1942, the complaint was filed.

Greyvan Lines, Inc., v. United States, northern district of Illinois.

Suit to set aside the Commission's order of March 17, 1942, in Docket No. MC-14786 (32 M. C. C. 719), wherein plaintiff's application for certificate to transport general commodities over certain specified routes was denied. On September 29, 1942, the complaint was filed.

Crescent Express Lines, Inc., v. United States, southern district of New York.

Suit to set aside the Commission's order of September 2, 1941, in Docket No. MC-78980, granting a certificate of public convenience and necessity authorizing applicant to engage as a common carrier by motor vehicle of passengers and their baggage, in special operations, in nonscheduled door-to-door service limited to the transportation of not more than six passengers in any one vehicle between New York, N. Y., and points in Sullivan and Ulster Counties, N. Y. On September 30, 1942, the complaint was filed.

National Movers & Warehouse Corp. v. Interstate Commerce Commission, southern district of New York.

Suit to set aside the Commission's order of February 24, 1942, in Docket No. MC-14658, denying in part plaintiff's application for a grandfather certificate under section 206 of the Motor Carrier Act (32 M. C. C. 545). On October 6, 1942, the complaint was filed, and on October 15, 1942, answer of Commission filed; argued, submitted, and taken under advisement.

Goncz, dba National Movers of Boston, v. Interstate Commerce Commission, district of Massachusetts.

Suit to set aside the Commission's order of January 22, 1942, in Docket No. MC-78344, denying in part plaintiff's application for a grandfather certificate as a common carrier by motor vehicle of household goods under section 206 (a) of the Motor Carrier Act (31 M. C. C. 812). On October 8, 1942, the complaint was filed. On October 22, 1942, the case was argued and submitted for decision.

Noble, dba Noble Transit Co., v. United States, district of Minnesota, third division.

For case history, see page 160, this volume.

Eastern Central Motor Carriers Assn. v. United States, southern district of New York.

Suit to set aside the Commission's order of November 17, 1941, in Investigation and Suspension Docket No. M-1216, Rugs and Matting from the East to Western Trunk Line Territory, finding that lower rates on shipments of over 15 tons were unreasonable and discriminatory. (31 M. C. C. 193.)

On October 13, 1942, the bill of complaint was filed, and on November 2, 1942, the case was argued and taken under advisement.

Wilson & Co., Inc. v. United States, northern district of Illinois.

Supplemental complaint to set aside the Commission's order of September 8, 1942, in Docket No. 20769, Charges for Protective Service to Perishable Freight, requiring rail respondents to establish the charges prescribed in an earlier order, dated October 1, 1940. (215 I. C. C. 684, 241 I. C. C. 503).

On October 28, 1942, the bill of complaint was filed.

Virginia Stage Lines, Inc., v. United States, western district of Virginia.

Suit to set aside the Commission's order of April 24, 1942, in Docket No. MC-1623, authorizing sale by Richmond Greyhound Lines and transfer to Carolina Coach Co. of operating authority from Richmond to Norfolk, Va., over Virginia Highways 36 and 10, conforming to order in 36 M. C. C. 747, which authorized purchase of Peninsula Transit Co. on condition that one of the routes from Richmond to Norfolk south of James River be sold to a protesting competitor.

On October 20, 1942, the bill of complaint was filed, and on October 31, the Commission's answer was filed.

Trans-American Freight Lines, Inc., v. United States, district of Delaware.

Suit to set aside the Commission's order of March 4, 1942, in No. MC-1673, Daniel Common Carrier Application, and its order in No. MC-1674, Daniel Contract Carrier Application, wherein both applications filed under the grandfather clauses of sections 206 (a) and 209 (a) of the Motor Carrier Act were denied because of failure to show continuous operation.

On October 21, 1942, the bill of complaint was filed.

Chicago, St. P., M. & O. Ry Co. v. United States, district of Minnesota, 4th Div.

Suit to set aside Commission's order of October 24, 1941, in Dockets Nos. MC-47466 and MC-47466 (Sub-No. 1), *Styer Common Carrier Application*, 30 M. C. C. 807, on the ground that said order grants authority broader than the evidence in the proceeding warrants.

On October 30, 1942, the bill of complaint was filed.

APPENDIX C

STATISTICAL SUMMARIES

A. Statistics of railway development since 1931.

B. Statistics from monthly and other periodical reports of carriers.

A. Statistics of Railway Development

Data for years preceding 1931 for most of the tables appear in prior reports.

TABLE I.—Mileage operated and mileage owned by steam railways in the United States, 1931-41

Year ended Dec. 31—	Road owned in the United States ¹ (first main track)	Total miles of all tracks operated, excluding trackage rights ²	Mileage operated by classes I, II, and III line-haul railways (including trackage rights)			
			First main track	Second or additional main tracks	Yard track and sidings	All tracks
1931.....	248,829	410,210	259,999	42,780	127,044	429,823
1932.....	247,595	408,346	258,869	42,556	126,977	423,402
1933.....	245,703	405,064	256,741	42,397	126,526	425,664
1934.....	243,857	401,620	254,882	42,109	125,410	422,401
1935.....	241,822	398,396	252,930	41,916	124,382	419,228
1936.....	240,104	395,263	251,542	41,731	123,108	416,381
1937.....	238,539	393,030	250,582	41,579	122,411	414,572
1938.....	236,842	389,704	248,474	41,589	121,261	411,324
1939.....	235,064	386,819	246,922	41,445	119,983	408,350
1940.....	233,670	385,178	245,740	41,373	118,862	405,975
1941.....	231,971	382,439	244,263	41,166	118,196	403,625

¹ Includes mileage of some small companies that do not make annual reports to the Commission.

² Includes mileage of classes I, II, and III line-haul railways and switching and terminal companies.

TABLE II.—Equipment of steam railways, including switching and terminal companies in service at the close of each year, 1931-41 ¹

Year ended Dec. 31—	Number of locomotives	Average tractive effort ²	Number of freight cars (excluding cabooses)	Average capacity ²	Number of passenger-train cars
		<i>Pounds</i>		<i>Tons</i>	
1931.....	58,652	45,764	2,245,904	47.0	52,096
1932.....	56,732	46,299	2,184,690	47.0	50,598
1933.....	54,228	46,916	2,072,632	47.5	47,677
1934.....	51,423	47,712	1,973,247	48.0	44,884
1935.....	49,541	48,367	1,867,381	48.3	42,426
1936.....	48,009	48,972	1,790,043	48.8	41,390
1937.....	47,555	49,412	1,776,428	49.2	40,949
1938.....	46,544	49,803	1,731,096	49.4	39,931
1939.....	45,172	50,395	1,680,519	49.7	38,977
1940.....	44,333	50,905	1,684,171	50.0	38,308
1941.....	44,375	51,217	1,732,673	50.3	38,334

¹ Privately owned cars and cars owned by the Pullman Co. are not included. In 1941, privately owned freight-carrying cars numbered 281,780 and cars owned by the Pullman Co., 7,059.

² Class I steam railways.

TABLE III.—*Railway capital actually outstanding and net income, 1931–41: Steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Total railway capital	Funded debt unmatured ¹	Stock	Ratio of debt to capital	Net income ²	Ratio of net income to stock
	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Percent</i>	<i>Thousands</i>	<i>Percent</i>
1931.....	\$22,747,229	\$12,738,815	\$10,008,414	56.0	\$169,287	1.69
1932.....	22,831,547	12,788,785	10,042,762	56.0	<i>121,630</i>	-----
1933.....	22,656,920	12,629,828	10,027,092	55.7	26,543	.26
1934.....	22,412,057	12,453,507	9,958,550	55.6	23,282	.23
1935.....	22,079,551	12,154,349	9,925,202	55.0	52,177	.53
1936.....	21,961,035	12,031,385	9,929,650	54.8	221,591	2.23
1937.....	21,694,645	11,881,981	9,812,664	54.8	146,351	1.49
1938.....	21,428,320	11,639,907	9,788,413	54.3	<i>87,468</i>	-----
1939.....	21,193,501	11,419,945	9,773,556	53.9	141,134	1.44
1940.....	21,047,280	11,277,306	9,769,974	53.6	243,148	2.49
1941.....	20,707,778	11,208,816	9,498,962	54.1	557,672	5.87

¹ Does not include long-term debt in default. For class I railways and their nonoperating subsidiaries such debt amounted to \$989,535 (thousands) at the close of 1941.

² Intercorporate duplications not eliminated, but amounts shown correspond with the stock in the second preceding column. Deficits shown in italics.

TABLE IV.—*Dividends, 1931–41: Steam railways, including lessor companies, but excluding switching and terminal companies*

Year ended Dec. 31—	Proportion of stock paying dividends ¹	Amount of dividends ¹	Average rate on—	
			Dividend-paying stock ¹	All stock
	<i>Percent</i>	<i>Thousands</i>	<i>Percent</i>	<i>Percent</i>
1931.....	73.20	\$401,463	5.48	4.01
1932.....	32.85	150,774	4.57	1.50
1933.....	31.11	158,790	5.09	1.58
1934.....	34.26	211,767	6.21	2.13
1935.....	34.39	202,568	5.94	2.04
1936.....	36.20	231,733	6.45	2.33
1937.....	39.64	227,596	5.85	2.32
1938.....	32.07	136,270	4.34	1.39
1939.....	32.64	179,412	5.62	1.84
1940.....	38.29	216,522	5.79	2.22
1941.....	40.65	239,438	6.20	2.52

¹ Includes figures for lessors and operating railways without excluding duplications on account of intercorporate payments. Stock dividends for the last 11 years have been as follows: \$400,000 in 1931; \$1,572,000 in 1932; and \$15,436,348 in 1936.

TABLE V.—*Reported property investment and selected income items, 1931-41: Operating steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Investment ¹	Invest- ment per mile of road	Deprecia- tion re- serve	Net railway operating income ²	Other in- come ³	Fixed charges and other deductions ⁴	Dividends declared ⁵
	<i>Thousands</i>		<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>
1931.....	\$ 26,094,899	\$105,953	\$2,520,738	\$528,204	\$307,785	\$708,622	\$333,986
1932.....	26,086,991	106,337	2,632,922	325,332	226,092	701,500	97,245
1933.....	25,901,962	106,437	2,707,942	477,326	213,592	703,745	98,443
1934.....	25,681,608	106,279	2,764,726	465,896	203,941	694,360	136,018
1935.....	25,500,465	106,339	2,771,404	505,415	186,228	686,688	131,448
1936.....	25,432,388	106,783	2,809,063	675,600	182,821	693,479	175,332
1937.....	25,636,082	108,235	2,950,848	597,841	170,337	670,291	172,795
1938.....	25,595,739	108,871	3,044,972	376,865	150,566	654,023	85,329
1939.....	25,538,157	109,331	3,102,779	595,961	156,050	658,505	129,386
1940.....	25,646,014	110,449	3,095,237	690,554	163,385	662,848	166,506
1941.....	25,668,984	111,352	3,240,145	1,009,592	169,519	674,455	189,750

¹ Includes investment of operating, lessor, and proprietary companies. Proprietary companies do not render annual reports to the Commission but information concerning them is given in reports of the operating companies.

² This term, as defined in the Interstate Commerce Act, means "railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents."

³ Includes amounts received as interest or dividends on railroad securities owned by reporting carriers. See Statistics of Railways, table 109.

⁴ The interest included represents accruals, not payments. In 1941, the interest accrued on unmatured funded debt and long-term debt in default in excess of payments was \$124,386,419 for class I steam railways.

⁵ Does not exclude duplication on account of intercorporate payments. Excludes dividends declared by lessor companies. Stock dividends for the last 11 years have been as follows: \$400,000 in 1931; \$1,572,000 in 1932; and \$15,436,348 in 1936.

⁶ Includes investment of lessor and proprietary companies, as follows, but excludes investment of proprietary companies in systems which file consolidated annual reports combining the mileage, investment, and other items on a net system basis.

Year	Lessor companies	Proprietary companies	Year	Lessor companies	Proprietary companies
	<i>Thousands</i>	<i>Thousands</i>		<i>Thousands</i>	<i>Thousands</i>
1931.....	\$4,188,768	\$1,114,637	1936.....	\$4,690,072	\$861,696
1932.....	4,578,876	1,121,945	1937.....	4,174,633	848,173
1933.....	4,577,564	1,096,264	1938.....	4,105,320	840,033
1934.....	4,306,287	890,581	1939.....	4,104,416	853,848
1935.....	4,302,199	861,716	1940.....	4,093,043	809,391
			1941.....	4,000,275	818,060

TABLE VI.—*Operating revenues, operating expenses, and taxes, class I steam railways, 1931-41*

Year ended Dec. 31—	Operating revenues	Freight revenues	Passenger revenues	Operating expenses	Railway tax ac- cruals ¹	Ratios to revenues		
						Mainte- nance of way and structures	Mainte- nance of equip- ment	Total op- erating expenses
	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
1931.....	\$4,188,343	\$3,248,754	\$550,250	\$3,223,575	\$304,149	12.67	19.51	76.97
1932.....	3,126,760	2,446,864	376,539	2,403,445	276,061	11.23	19.80	76.87
1933.....	3,095,404	2,488,848	328,957	2,249,232	251,757	10.41	19.34	72.66
1934.....	3,271,567	2,629,302	345,890	2,441,823	241,813	11.17	19.50	74.64
1935.....	3,451,929	2,786,118	357,493	2,592,741	239,441	11.41	19.75	75.11
1936.....	4,052,734	3,302,894	412,144	2,931,425	322,392	11.22	19.32	72.33
1937.....	4,166,069	3,370,959	442,518	3,119,065	329,401	11.90	19.84	74.87
1938.....	3,565,491	2,852,112	405,598	2,722,199	343,194	11.78	18.97	76.35
1939.....	3,995,004	3,244,445	416,531	2,918,210	358,445	11.69	19.17	73.05
1940.....	4,296,601	3,528,782	416,897	3,089,417	398,725	11.57	19.06	71.90
1941.....	5,346,700	4,443,405	514,633	3,664,232	555,329	11.28	18.56	68.53

¹ Includes lessor companies.

TABLE VII.—*Number and compensation of employees, class I steam railways, 1931-41*

Year ended Dec. 31—	Average number of employees during year ¹	Compensation of railway employees ²		
		Total	Ratio to revenues	Ratio to expenses
		<i>Thousands</i>	<i>Percent</i>	<i>Percent</i>
1931.....	1,258,719	\$2,094,994	50.02	64.99
1932.....	1,031,703	1,512,816	48.38	62.94
1933.....	971,196	1,403,841	45.35	62.41
1934.....	1,007,702	1,519,352	46.44	62.22
1935.....	994,371	1,643,879	47.62	63.40
1936.....	1,065,624	1,848,636	45.61	63.06
1937.....	1,114,663	1,985,447	47.66	63.66
1938.....	939,171	1,746,141	48.97	64.14
1939.....	987,675	1,863,334	46.64	63.85
1940.....	1,026,848	1,964,125	45.71	63.58
1941.....	1,139,925	2,331,650	43.61	63.63

¹ This is the average of 12 counts made at middle of month and differs from the number of persons receiving pay during the month or year regardless of whether for a long or short period.

² In 1941, \$2,198,114 (thousands) or 94.27 percent of the reported compensation, was chargeable to operating expenses.

TABLE VIII.—*Transportation service performed by steam railways, 1931-41, excluding switching and terminal companies*

Year ended Dec. 31—	Freight service					Passenger service		
	Revenue tons originated	Revenue tons carried 1 mile	Loaded-car miles	Average haul		Passengers carried	Passenger-miles	Average journey per passenger ¹
				United States as a system	For the individual road			
	<i>Thousands</i>	<i>Millions</i>	<i>Millions</i>	<i>Miles</i>	<i>Miles</i>	<i>Millions</i>	<i>Millions</i>	<i>Miles</i>
1931.....	944,846	311,073	13,271	329.23	183.62	599	21,933	36.60
1932.....	678,854	235,309	10,430	346.63	191.45	481	16,997	35.36
1933.....	733,391	250,651	10,776	341.77	189.53	435	16,368	37.64
1934.....	802,276	270,292	11,657	336.91	187.65	452	18,069	39.96
1935.....	831,656	283,637	12,076	341.05	188.77	448	18,509	41.31
1936.....	1,011,530	341,182	14,031	337.29	188.94	492	22,400	45.60
1937.....	1,075,237	362,815	14,702	337.43	188.14	500	24,695	49.42
1938.....	819,733	291,866	12,266	356.05	196.87	455	21,657	47.65
1939.....	954,924	335,375	13,639	351.21	193.91	454	22,713	50.02
1940.....	1,069,045	375,369	14,777	351.13	192.75	456	23,816	52.22
1941.....	1,295,860	477,576	18,172	368.54	198.59	489	29,406	60.18

¹ This average is affected by the changing ratio of commutation traffic to the total traffic.

TABLE IX.—*Carload, trainload, and density of traffic, class I steam railways, 1931-41*

Year ended Dec. 31—	Ton-miles revenue and nonrevenue freight per loaded freight-car mile	Revenue ton-miles per train-mile	Passenger-miles per car-mile	Passenger-miles per train-mile	Revenue ton-miles per mile of road	Passenger-miles per mile of road
1931.....	25.57	669	10	45	1,276,861	90,662
1932.....	24.75	600	10	40	968,772	70,467
1933.....	25.44	635	10	43	1,035,707	68,100
1934.....	25.48	639	11	47	1,124,542	75,730
1935.....	25.79	662	11	48	1,185,368	78,116
1936.....	26.77	703	13	55	1,432,154	95,232
1937.....	27.07	724	13	59	1,530,667	105,377
1938.....	26.04	691	12	55	1,235,843	93,544
1939.....	26.86	743	13	58	1,427,115	98,559
1940.....	27.59	781	13	61	1,602,009	103,621
1941.....	28.41	845	15	73	2,044,237	128,413

TABLE X.—Average receipts per ton, per ton-mile, per passenger, and per passenger-mile, 1931-41

Year ended Dec. 31—	Average amount received for each ton originated	Revenue per ton-mile	Average receipts per passenger	Revenue per passenger-mile
		<i>Cents</i>		<i>Cents</i>
1931.....	\$3.495	1.062	\$0.921	2.515
1932.....	3.661	1.056	.785	2.221
1933.....	3.448	1.009	.758	2.015
1934.....	3.330	.989	.767	1.920
1935.....	3.404	.998	.800	1.936
1936.....	3.318	.984	.839	1.840
1937.....	3.189	.945	.888	1.796
1938.....	3.539	.994	.894	1.877
1939.....	3.453	.983	.920	1.839
1940.....	3.353	.955	.916	1.755
1941.....	3.480	.944	1.056	1.754

TABLE XI.—Fuel consumed by steam locomotives, and rails and ties laid, class I steam railways, not including switching and terminal companies, 1931-41

Year ended Dec. 31—	Bituminous coal	Anthracite coal	Fuel oil		Total fuel ¹	Rails applied in replacement and betterment (all tracks)	Ties laid in previously constructed tracks	
			Thousands of gallons	Equivalent tons ⁽²⁾			Cross ties	Switch and bridge ties
	<i>Net tons</i>	<i>Net tons</i>			<i>Net tons</i>	<i>Long tons</i>	<i>Number</i>	<i>Feet (b. m.)</i>
1931.....	81,724,711	542,719	2,015,695	(2)	94,924,409	1,714,905	51,501,659	188,594,522
1932.....	66,497,832	327,484	1,759,124	11,001,819	77,858,747	797,320	39,190,473	140,565,691
1933.....	66,198,465	477,574	1,709,032	10,668,937	77,384,143	862,298	37,295,716	134,148,930
1934.....	70,495,547	608,076	1,868,381	11,667,945	82,810,885	1,165,304	43,306,205	155,248,532
1935.....	71,334,736	508,229	1,998,176	12,920,919	84,782,729	1,159,039	44,326,151	156,535,925
1936.....	81,129,740	484,537	2,353,484	15,106,820	96,755,785	1,701,350	47,361,015	167,377,828
1937.....	82,666,673	473,286	2,581,441	16,561,713	99,732,944	1,974,597	47,729,538	159,429,849
1938.....	68,793,756	432,683	2,240,299	14,402,304	83,664,267	1,202,943	41,363,224	141,887,780
1939.....	73,935,025	719,200	2,334,571	15,020,974	89,718,757	1,719,306	45,088,278	147,044,571
1940.....	79,628,318	285,653	2,502,868	16,118,796	96,066,679	1,911,513	43,620,653	145,553,116
1941.....	91,655,061	432,080	3,025,461	19,497,035	111,616,334	2,228,822	47,224,593	144,599,723

¹ In the statement of consumption of fuel by locomotives, 1 cord of hardwood is considered as equivalent to $\frac{3}{8}$ of a ton of fuel and 1 cord of softwood as equivalent to $\frac{1}{2}$ of a ton of fuel. The ratio used in reducing fuel oil to tons of fuel is left to the experience of each road. Figures include data for cordwood, also a small amount of miscellaneous fuel. Does not include equivalent tons for fuel consumed by motive power units, other than steam locomotives, which in 1941 amounted to 5,117,064 tons.

² Data not available, except approximately by subtraction.

TABLE XII.—Selected data from annual reports of class I steam railways, 1941 and 1940, by districts

Item	All districts		Eastern district	
	Year ended Dec. 31—			
	1941	1940	1941	1940
Railway operating revenues (thousands)	\$5,346,700	\$4,296,601	\$2,330,691	\$1,879,182
Railway operating expenses:				
Total (thousands)	\$3,664,232	\$3,089,417	\$1,636,958	\$1,356,273
Maintenance of way and structures (thousands)	\$603,088	\$497,031	\$247,348	\$194,857
Maintenance of equipment (thousands)	\$992,613	\$818,975	\$460,588	\$370,481
Transportation—rail line (thousands)	\$1,771,852	\$1,494,285	\$814,601	\$684,017
Net railway operating income (thousands)	\$998,256	\$682,133	\$396,602	\$291,200
Freight-service statistics:				
Freight revenue (thousands)	\$4,443,405	\$3,528,782	\$1,897,602	\$1,499,413
Revenue tons originated (thousands)	1,227,650	1,009,421	522,226	429,565
Total revenue tons carried (thousands)	2,280,267	1,843,290	1,167,028	949,523
Revenue tons carried 1 mile (thousands)	475,072,001	373,253,197	191,749,820	150,774,377
Revenue per ton-mile (cents)	0.935	0.945	0.989	0.994
Revenue ton-miles per mile of road	2,044,237	1,602,009	3,346,120	2,624,236
Freight train-miles (thousands)	567,727	481,892	196,792	166,516
Revenue ton-miles per train-mile	845	781	987	915
Loaded car-miles (thousands)	18,083,571	14,699,023	6,907,919	5,558,145
Empty car-miles (thousands)	10,192,436	9,081,658	3,847,420	3,445,425
Ton-miles revenue and nonrevenue freight per loaded car-mile	28.41	27.59	29.52	28.90
Average haul per road (miles)	208.34	202.49	164.31	158.79
Passenger-service statistics:				
Passenger revenue (thousands)	\$514,633	\$416,897	\$264,430	\$226,826
Passengers carried (thousands)	485,399	452,921	352,396	334,687
Passenger-miles (thousands)	29,350,229	23,762,359	14,583,360	12,547,060
Revenue per passenger-mile (cents)	1.75	1.75	1.81	1.81
Passenger-miles per mile of road	128,413	103,621	266,295	228,523
Average journey per passenger (miles)	60.47	52.46	41.38	37.49
Passenger-miles per train-mile	73	61	88	77

Item	Southern district		Western district	
	Year ended Dec. 31—			
	1941	1940	1941	1940
Railway operating revenues (thousands)	\$1,010,534	\$818,550	\$2,005,475	\$1,598,869
Railway operating expenses:				
Total (thousands)	\$637,701	\$554,809	\$1,389,573	\$1,178,335
Maintenance of way and structures (thousands)	\$103,310	\$91,319	\$252,430	\$210,855
Maintenance of equipment (thousands)	\$184,330	\$159,901	\$347,695	\$288,593
Transportation—rail line (thousands)	\$295,274	\$252,598	\$661,977	\$557,670
Net railway operating income (thousands)	\$230,716	\$166,763	\$370,938	\$224,170
Freight-service statistics:				
Freight revenue (thousands)	\$867,181	\$707,816	\$1,678,622	\$1,321,553
Revenue tons originated (thousands)	299,457	252,972	405,967	326,884
Total revenue tons carried (thousands)	470,734	385,722	642,505	508,045
Revenue tons carried 1 mile (thousands)	105,913,824	87,883,840	177,408,357	134,594,980
Revenue per ton-mile (cents)	0.819	0.805	0.946	0.982
Revenue ton-miles per mile of road	2,400,476	1,983,073	1,355,356	1,026,366
Freight train-miles (thousands)	119,120	102,804	251,815	212,572
Revenue ton-miles per train-mile	897	862	709	637
Loaded car-miles (thousands)	3,499,045	2,951,361	7,676,607	6,189,517
Empty car-miles (thousands)	2,095,549	1,891,299	4,249,467	3,744,934
Ton-miles revenue and nonrevenue freight per loaded car-mile	32.34	31.97	25.64	24.33
Average haul per road (miles)	225.00	227.84	276.12	264.93
Passenger-service statistics:				
Passenger revenue (thousands)	\$86,502	\$59,591	\$163,701	\$130,480
Passengers carried (thousands)	61,538	51,654	71,465	66,580
Passenger-miles (thousands)	5,005,706	3,472,075	9,761,163	7,743,224
Revenue per passenger-mile (cents)	1.73	1.72	1.68	1.69
Passenger-miles per mile of road	113,451	78,346	75,274	59,519
Average journey per passenger (miles)	81.34	67.22	136.59	116.30
Passenger-miles per train-mile	72	52	59	48

B. Statistics From Monthly and Other Periodical Reports of Carriers

TABLE A.—*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1938-42, class I steam railways, excluding switching and terminal companies*

	1942	1941	1940	1939	1938
Miles of road operated..	230,540	231,911	232,824	233,160	233,842

RAILWAY OPERATING REVENUES

January.....	\$480,691,157	\$377,374,190	\$345,639,123	\$305,778,767	\$279,108,385
February.....	462,486,015	358,413,499	313,594,852	276,904,334	251,037,015
March.....	540,300,226	416,319,161	327,131,789	315,091,017	283,017,974
April.....	572,531,295	375,008,369	321,567,097	282,117,754	268,213,596
May.....	601,064,747	442,285,876	343,494,649	302,617,948	272,609,400
June.....	623,687,416	455,022,722	344,952,789	321,616,735	282,080,672
July.....	665,181,540	485,446,306	366,220,237	332,435,852	299,589,726
August.....	683,806,778	493,674,008	381,538,438	344,399,562	315,335,418
September.....	697,792,146	488,978,901	382,714,515	381,117,880	322,542,835
October.....	-----	517,604,959	413,712,272	419,717,399	353,384,223
November.....	-----	457,011,853	375,498,853	368,026,739	319,629,292
December.....	-----	479,560,154	381,936,980	345,180,252	318,281,016
12 months.....	-----	¹ 5,346,699,998	¹ 4,298,001,598	¹ 3,995,004,243	¹ 3,564,829,551

RAILWAY OPERATING EXPENSES

January.....	\$348,780,936	\$268,971,743	\$257,395,976	\$232,946,449	\$232,565,356
February.....	327,653,379	255,590,196	240,579,920	220,619,933	215,353,899
March.....	360,152,483	283,328,538	248,634,646	240,358,779	229,004,115
April.....	366,755,692	274,938,371	245,877,517	227,622,288	219,484,312
May.....	375,449,774	296,590,475	252,854,916	237,411,054	217,054,008
June.....	378,472,014	298,932,432	252,507,423	241,785,658	218,132,406
July.....	390,476,947	310,034,946	262,064,921	241,962,092	222,166,822
August.....	399,202,303	313,843,279	267,571,190	247,621,627	229,572,952
September.....	399,705,707	312,288,197	260,239,661	251,166,939	231,982,740
October.....	-----	361,501,715	276,780,299	271,538,049	242,354,484
November.....	-----	335,614,115	259,517,849	256,170,301	231,203,930
December.....	-----	352,531,871	266,148,818	249,006,533	232,619,459
12 months.....	-----	¹ 3,664,175,018	¹ 3,090,173,137	¹ 2,918,209,705	¹ 2,721,494,485

MAINTENANCE OF WAY AND STRUCTURES

January.....	\$49,492,641	\$36,738,168	\$33,945,314	\$31,375,988	\$30,585,245
February.....	47,550,491	36,145,377	33,222,303	30,597,113	29,307,131
March.....	54,832,217	41,168,148	36,383,946	34,675,291	32,216,884
April.....	62,369,169	45,461,554	39,665,922	36,459,178	33,144,187
May.....	66,162,657	51,640,349	44,187,205	41,826,338	34,309,654
June.....	69,579,961	52,532,563	45,302,346	44,379,672	36,021,878
July.....	73,487,147	54,709,486	46,946,771	43,186,402	36,955,098
August.....	77,248,454	56,209,812	48,516,173	43,852,401	39,853,739
September.....	75,637,517	56,023,638	45,739,460	42,916,549	41,392,520
October.....	-----	62,628,498	47,210,460	44,176,304	40,352,359
November.....	-----	53,965,478	39,611,914	38,092,758	34,597,255
December.....	-----	55,884,767	36,429,969	35,282,824	31,352,097
12 months.....	-----	¹ 603,110,965	¹ 497,167,786	¹ 466,830,717	¹ 420,088,057

¹ Includes certain corrections not appearing in monthly figures.

TABLE A.—*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1938-42, class I steam railways, excluding switching and terminal companies—Continued*

MAINTENANCE OF EQUIPMENT

Month	1942	1941	1940	1939	1938
January.....	\$94,439,135	\$74,219,856	\$68,978,746	\$62,105,960	\$58,281,255
February.....	89,961,770	71,265,850	64,985,513	58,960,882	54,760,047
March.....	98,059,345	78,568,702	66,666,934	65,159,441	57,929,168
April.....	99,099,276	74,863,857	65,267,825	58,927,063	54,870,959
May.....	99,752,859	80,997,206	65,423,840	59,220,509	53,007,538
June.....	100,935,981	80,939,704	65,854,879	61,852,394	52,830,959
July.....	100,951,390	83,234,063	69,322,759	61,039,743	52,995,172
August.....	102,782,140	84,138,974	70,530,994	63,192,294	55,806,828
September.....	102,387,202	83,151,619	68,410,234	64,824,135	56,375,021
October.....	-----	96,646,099	74,025,150	73,553,444	59,740,284
November.....	-----	91,040,655	69,077,134	70,802,890	59,458,704
December.....	-----	93,443,818	70,556,099	66,296,405	60,318,603
12 months.....	-----	¹ 992,511,463	¹ 819,103,106	¹ 765,935,263	¹ 676,374,537

TRANSPORTATION EXPENSE

January.....	\$177,000,508	\$134,536,372	\$131,369,136	\$117,101,747	\$120,444,338
February.....	163,967,902	125,673,083	120,174,222	109,455,898	109,169,091
March.....	179,226,113	140,155,114	122,885,664	118,172,058	116,347,744
April.....	177,247,921	131,149,656	118,168,721	110,205,043	109,520,543
May.....	181,438,841	140,297,169	120,264,970	113,829,958	107,843,429
June.....	179,150,910	141,186,174	118,137,928	112,915,180	107,371,105
July.....	186,674,713	147,676,709	122,841,060	115,269,955	110,295,339
August.....	189,828,909	149,336,430	125,886,937	117,980,807	112,186,407
September.....	191,551,014	148,984,443	123,941,092	121,247,357	112,627,892
October.....	-----	175,202,401	133,047,279	131,425,013	120,646,564
November.....	-----	164,538,377	128,658,200	124,975,874	115,605,926
December.....	-----	176,237,185	136,017,596	125,215,019	118,983,530
12 months.....	-----	¹ 1,774,977,015	¹ 1,501,392,805	¹ 1,417,793,911	¹ 1,361,041,910

NET RAILWAY OPERATING INCOME ¹

January.....	\$68,966,384	\$62,017,440	\$46,012,810	\$32,947,172	\$7,144,036
February.....	66,486,021	58,135,957	32,856,489	18,637,706	<i>1,909,135</i>
March.....	92,375,472	80,170,452	37,034,270	34,375,047	14,728,275
April.....	102,034,439	52,074,740	34,120,523	15,323,766	9,397,132
May.....	109,672,054	88,104,433	47,408,236	25,172,741	16,665,684
June.....	118,730,968	93,316,121	48,090,783	39,166,788	25,159,522
July.....	133,001,365	106,381,904	57,725,166	48,996,611	38,431,251
August.....	135,264,075	111,411,489	66,530,181	54,567,356	45,421,781
September.....	154,631,717	104,358,836	74,715,435	86,529,622	50,406,298
October.....	-----	93,657,126	87,638,354	101,716,356	68,594,769
November.....	-----	68,764,844	71,560,226	70,414,617	49,692,171
December.....	-----	80,548,607	78,850,744	60,981,299	49,418,855
12 months.....	-----	¹ 999,502,906	¹ 682,543,218	¹ 588,829,078	¹ 373,150,639

¹ Includes certain corrections not appearing in monthly figures.² For meaning of this term see table V, footnote 2. Deficit in italics.

TABLE A-2.—Other income and deductions, by months, 1938-42, class I steam railways, excluding switching and terminal companies

OTHER INCOME

Month	1942	1941	1940	1939	1938
January.....	\$12,552,610	\$12,399,532	\$11,749,878	\$12,417,602	\$12,673,274
February.....	10,955,380	10,614,688	10,184,902	9,959,551	10,382,950
March.....	11,477,167	11,117,538	11,885,382	9,707,157	10,510,025
April.....	11,602,227	10,666,070	10,967,442	10,567,202	10,636,045
May.....	11,475,239	11,643,920	11,571,524	10,750,235	11,618,229
June.....	15,900,862	15,541,024	15,124,357	13,492,219	12,740,083
July.....	14,168,416	14,729,425	13,300,792	12,001,399	11,575,292
August.....	11,797,842	12,239,740	11,028,491	10,433,058	11,207,865
September.....	11,888,353	12,331,944	11,674,364	11,035,246	11,262,649
October.....	-----	12,781,324	12,106,349	11,047,877	11,642,791
November.....	-----	13,629,762	14,933,571	17,078,555	12,374,431
December.....	-----	39,160,951	34,539,388	32,376,572	28,559,320
12 months.....	-----	¹ 176,950,914	¹ 169,066,442	¹ 160,866,266	¹ 155,026,160

INTEREST, RENTS, AND OTHER DEDUCTIONS

Month	1942	1941	1940	1939	1938
January.....	\$55,388,621	\$54,988,204	\$53,965,388	\$53,833,175	\$53,137,603
February.....	53,725,775	54,065,489	53,136,028	52,707,994	52,878,429
March.....	56,964,669	55,959,364	53,601,743	54,322,959	53,250,873
April.....	55,746,967	55,442,383	54,078,181	53,514,744	53,299,883
May.....	57,479,946	56,607,877	54,832,557	54,238,053	53,561,992
June.....	56,941,277	55,509,841	55,597,627	53,923,948	53,639,135
July.....	57,537,922	57,023,655	54,484,161	54,231,208	53,891,180
August.....	57,818,480	57,569,087	55,410,713	54,760,372	55,448,596
September.....	61,329,952	56,923,934	55,250,466	56,302,569	55,273,985
October.....	-----	52,754,076	56,556,170	56,053,856	56,066,190
November.....	-----	53,169,086	55,983,699	54,432,293	54,511,594
December.....	-----	62,992,922	62,737,604	56,629,447	55,483,072
12 months.....	-----	¹ 673,578,553	¹ 666,544,753	¹ 654,950,210	¹ 649,525,504

NET INCOME ²

Month	1942	1941	1940	1939	1938
January.....	\$26,130,371	\$19,428,763	\$3,797,302	<i>\$8,468,402</i>	<i>\$33,820,804</i>
February.....	23,715,624	14,685,163	<i>10,094,640</i>	<i>24,110,743</i>	<i>44,404,605</i>
March.....	46,887,970	35,328,623	<i>4,682,087</i>	<i>10,240,752</i>	<i>28,012,572</i>
April.....	57,889,702	7,298,423	<i>8,990,217</i>	<i>27,623,773</i>	<i>53,266,705</i>
May.....	63,668,283	43,140,477	4,147,202	<i>18,315,076</i>	<i>25,277,485</i>
June.....	77,690,545	53,347,311	7,617,507	<i>1,264,946</i>	<i>15,739,527</i>
July.....	89,631,861	64,087,669	16,541,799	6,766,805	<i>5,884,635</i>
August.....	89,243,435	66,082,142	22,147,953	10,240,043	1,181,043
September.....	105,190,123	59,766,847	31,139,331	41,262,297	6,394,960
October.....	-----	53,675,973	43,188,534	56,710,375	24,171,371
November.....	-----	29,225,516	30,510,101	33,060,874	7,555,005
December.....	-----	55,492,241	50,652,526	36,728,429	22,495,109
12 months.....	-----	¹ 501,650,867	¹ 185,064,902	¹ 94,745,129	¹ 121,548,707

¹ Includes certain corrections not appearing in monthly figures.² Deficits in italics.

TABLE B.—*Analysis of operating revenues and expenses, class I steam railways, excluding switching and terminal companies, 1940-42*

Item	9 months, January to September, inclusive		Calendar year— ^a	
	1942	1941	1941	1940
Operating revenues:				
Freight.....	\$4, 290, 450, 449	\$3, 232, 982, 787	\$4, 447, 568, 333	\$3, 537, 440, 970
Passenger.....	692, 652, 052	378, 069, 203	514, 687, 031	417, 268, 962
Mail.....	78, 779, 580	77, 580, 692	108, 192, 446	101, 086, 894
Express.....	64, 403, 408	43, 450, 183	57, 281, 554	55, 642, 988
All other.....	201, 254, 000	160, 440, 166	218, 970, 634	186, 561, 784
Total.....	5, 327, 539, 489	3, 892, 523, 031	5, 346, 699, 998	4, 258, 001, 598
Percent of total:				
Freight.....	80. 53	83. 06	83. 18	82. 29
Passenger.....	13. 00	9. 71	9. 63	9. 71
Mail.....	1. 48	1. 99	2. 02	2. 36
Express.....	1. 21	1. 12	1. 07	1. 30
All other.....	3. 78	4. 12	4. 10	4. 34
Operating expenses:				
Maintenance of way and structures.....	\$576, 360, 117	\$430, 628, 372	\$603, 110, 965	\$497, 167, 786
Maintenance of equipment.....	888, 369, 183	711, 377, 695	992, 511, 463	819, 103, 106
Traffic.....	87, 222, 682	82, 309, 782	111, 888, 491	107, 593, 047
Transportation.....	1, 626, 085, 068	1, 258, 995, 151	1, 774, 977, 015	1, 501, 392, 805
General.....	116, 489, 339	100, 172, 136	138, 214, 336	130, 498, 100
All other.....	52, 211, 007	31, 032, 181	43, 472, 748	34, 418, 293
Total.....	3, 346, 737, 396	2, 614, 515, 317	3, 664, 175, 018	3, 090, 173, 137
Percent of total:				
Maintenance of way and structures.....	17. 22	16. 47	16. 46	16. 09
Maintenance of equipment.....	26. 54	27. 21	27. 09	26. 51
Traffic.....	2. 61	3. 15	3. 05	3. 48
Transportation.....	48. 59	48. 15	48. 44	48. 59
General.....	3. 48	3. 83	3. 77	4. 22
All other.....	1. 56	1. 19	1. 19	1. 11
Railway tax accruals.....	\$875, 865, 672	\$422, 375, 219	\$546, 071, 058	\$396, 623, 016
Equipment rents—debit.....	103, 430, 529	74, 690, 070	102, 176, 729	95, 735, 682
Joint-facility rents—debit.....	28, 516, 252	24, 968, 191	34, 774, 287	32, 926, 545
Net railway operating income.....	972, 989, 640	755, 974, 234	999, 502, 906	682, 543, 218

TABLE C.—*Ton-miles of freight (revenue and nonrevenue), by months, 1938-42, class I steam railways*

Month	1942	1941	1940	1939	1938
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
January.....	46, 666	36, 070	32, 518	28, 155	26, 405
February.....	44, 109	34, 186	29, 662	25, 558	23, 182
March.....	51, 854	40, 572	31, 118	28, 834	26, 036
April.....	53, 631	31, 617	29, 909	23, 982	22, 784
May.....	58, 517	43, 391	33, 081	25, 741	23, 697
June.....	57, 304	44, 032	32, 900	28, 461	23, 881
July.....	60, 713	46, 079	33, 716	29, 829	26, 305
August.....	62, 405	49, 231	36, 406	31, 397	27, 434
September.....	61, 934	47, 622	37, 060	36, 118	29, 119
October.....		51, 135	38, 614	40, 069	32, 759
November.....		46, 032	35, 955	35, 125	28, 474
December.....		44, 545	34, 903	31, 453	28, 129
12 months.....		1 514, 520	1 405, 837	1 364, 723	1 318, 202

¹ Includes certain corrections not appearing in monthly figures.

TABLE D.—*Selected operating averages in freight and passenger service of class I steam railways in the United States, 1940-42*

Item	8 months, January to August, inclusive		Calendar year—	
	1942	1941	1941	1940
Average miles of road included.....	229,982	230,821	230,711	231,403
Net ton-miles per mile of road per day.....	7,786	5,797	6,110	4,792
Percent of freight locomotives unserviceable.....	13.8	21.2	19.6	24.9
Percent of freight cars unserviceable.....	3.1	5.2	4.7	7.9
Percent of loaded of total car-miles.....	62.6	63.8	63.9	61.8
Percent east-bound or north-bound of loaded car-miles.....	59.7	57.6	57.7	58.7
Car-miles per car-day.....	45.7	39.6	40.6	35.0
Net ton-miles per car-day.....	893	709	740	598
Net ton-miles per loaded car-mile.....	31.2	28.1	28.5	27.6
Car-miles per train-mile.....	51.8	50.3	50.3	49.7
Gross ton-miles per train-mile (excluding locomotives and tenders).....	2,256	2,111	2,125	2,047
Net ton-miles per train-mile (including non-revenue tons).....	1,012	901	915	849
Average miles per hour, trains in freight service.....	16.1	16.6	16.5	16.7
Pounds of coal per 1,000 gross ton-miles (including locomotives and tenders).....	112	113	113	115
Average cost of coal per ton (including freight charges).....	\$2.68	\$2.54	\$2.57	\$2.45
Revenue per ton-mile.....	\$0.00923	\$0.00942	\$0.00936	\$0.00946
Average haul per revenue ton per railroad.....	224.4	206.3	207.4	201.8
Number of freight-train miles.....	434,592,608	364,470,665	568,023,259	482,174,672
Number of passenger-train miles.....	277,973,139	266,778,973	400,923,323	391,618,851
Number of passenger-train car-miles.....	2,305,035,477	2,071,579,222	3,134,697,712	2,936,803,813
Passenger-train cars per train.....	8.92	8.43	8.48	8.17
Revenue per passenger per mile:				
Including commutation passengers.....	\$0.0192	\$0.0176	\$0.0175	\$0.0175
Excluding commutation passengers.....	\$0.0201	\$0.0188	\$0.0187	\$0.0190

TABLE E.—*Average number of employees and total compensation, by groups of employees, 8 months, January to August, inclusive, class I steam railways, excluding switching and terminal companies*

Groups of employees	8 months, January to August, inclusive			
	Average number of employees middle of month		Total compensation	
	1942	1941	1942	1941
I. Executives, officials, and staff assistants.....	12,845	12,098	\$52,130,603	\$47,080,680
II. Professional, clerical, and general.....	196,087	173,380	290,312,675	227,532,065
III. Maintenance of way and structures.....	255,510	227,298	273,131,771	197,655,004
IV. Maintenance of equipment and stores.....	346,122	307,271	495,824,086	374,968,634
V. Transportation (other than train, engine, and yard).....	144,692	134,167	191,420,096	151,140,725
VI (a). Transportation (yardmasters, switch tenders, and hostlers).....	15,052	13,346	29,589,821	22,949,743
VI (b). Transportation (train and engine service).....	275,926	239,820	562,412,902	429,023,890
All employees.....	1,246,234	1,107,380	1,894,821,954	1,450,350,741

TABLE F.—*Carloads and tons of commodities originated and freight revenue, by commodity groups, calendar year 1941, class I steam railways*

Commodity groups	Number of carloads	Number of tons (2,000 pounds)	Freight revenue
Products of agriculture.....	3,521,610	100,172,666	\$586,771,120
Animals and products.....	1,250,405	16,810,149	187,273,451
Products of mines.....	12,629,803	684,433,639	1,276,369,552
Products of forests.....	2,254,110	71,539,939	315,638,725
Manufactures and miscellaneous.....	12,049,890	336,603,030	1,951,925,269
Grand total, carload traffic.....	31,705,818	1,209,559,423	4,317,978,117
All less-than-carload freight.....	-----	18,091,005	306,841,487
Grand total, carload and less-than-carload traffic.....	-----	1,227,650,428	4,624,819,604

TABLE G.—*Summary of casualties to persons on steam railways in the United States for the years ended Dec. 31, 1941, 1940, 1939, 1938, and 1937*

Class of persons	Number of persons									
	1941		1940		1939		1938		1937	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1. Trespassers.....	2,104	1,572	1,977	1,765	2,234	1,943	2,229	2,094	2,515	2,289
2. Employees:										
Trainmen on duty..	454	9,943	306	7,036	254	6,125	258	5,680	368	8,152
Other employees....	208	1,253	169	920	146	863	128	801	189	1,142
Total employees..	662	11,196	475	7,956	400	6,988	386	6,481	557	9,294
3. Passengers on trains..	34	2,916	75	2,530	27	2,503	69	2,272	18	2,508
4. Travelers not on trains.....	5	81	5	60	11	67	6	66	9	79
5. Persons carried under contract.....	8	271	4	188	4	262	9	251	5	337
6. Other nontrespassers..	2,070	5,395	1,908	5,059	1,480	4,247	1,590	4,338	2,014	5,642
Total, train and train-service accidents (1 to 6).....	4,883	21,431	4,444	17,558	4,156	16,010	4,289	15,502	5,118	20,149
7. Casualties in non-train accidents.....	203	16,380	168	12,032	206	12,109	210	11,751	232	16,543
Total, 1 to 7.....	5,086	37,811	4,612	29,590	4,362	28,119	4,499	27,253	5,350	36,692
8. Casualties at grade crossings ¹	1,931	4,885	1,808	4,632	1,398	3,999	1,517	4,018	1,875	5,136
9. Casualties excluded from all totals ²	105	18	128	16	130	25	150	22	152	21

¹ Included in total for items 1 to 6, and distributed under various heads, chiefly item 6.

² Figures relate to suicides, persons mentally deranged, and persons attempting to escape custody.

TABLE H.—*Revenues and expenses of class I¹ motor carriers of property for the calendar year 1941 compared with those of the same carriers for 1940²*

Item	Total carriers reported	
	1941	1940
Number of carriers represented.....	1, 176	1, 176
Operating revenues:		
Freight revenue—Common carrier.....	\$523, 467, 270	\$410, 265, 330
Freight revenue—Contract carrier.....	90, 701, 612	75, 164, 793
Miscellaneous terminal revenue.....	1, 466, 109	1, 117, 939
Other operating revenue.....	4, 967, 658	3, 540, 473
Total operating revenues.....	620, 602, 649	490, 088, 535
Operating expenses:		
Equipment maintenance and garage expense.....	63, 417, 245	49, 405, 961
Transportation expense.....	219, 568, 524	177, 511, 364
Terminal expense.....	118, 864, 107	83, 911, 518
Sales, tariff, and advertising expense.....	19, 928, 364	17, 062, 832
Insurance and safety expense.....	31, 176, 780	25, 950, 937
Administrative and general expense.....	55, 865, 529	47, 305, 372
Total operation and maintenance expenses.....	508, 820, 549	401, 147, 984
Depreciation expense.....	25, 010, 799	21, 266, 727
Amortization chargeable to operations.....	141, 618	76, 650
Operating taxes and licenses.....	44, 206, 810	35, 453, 729
Operating rents—net.....	11, 790, 667	10, 216, 135
Total expenses.....	589, 970, 443	468, 161, 225
Net operating revenue.....	30, 632, 206	21, 927, 310

¹ Class I motor carriers are those having average gross operating revenues of \$100,000 or over annually; the total annual revenues of which are about half of the grand total for all motor carriers whose rates and services are subject to the jurisdiction of the Interstate Commerce Commission.

² This table includes 1,034 intercity carriers and 142 carriers the services of which are predominantly local in character. The table does not include the reports of 65 carriers that failed to furnish comparable figures for 1940. The total figures for these 65 carriers amounted to the following for the year 1941: Operating revenues, \$14,293,211; operation and maintenance expenses, \$11,661,050; other expenses, \$1,938,512; total expenses, \$13,599,562; net operating revenue, \$693, 649.

TABLE I.—*Revenues and expenses of class I motor carriers of passengers for the calendar year 1941 compared with those of the same carriers for 1940¹*

Item	Total carriers reported	
	1941	1940
Number of carriers represented.....	203	203
Operating revenues:		
Passenger revenue.....	\$180, 861, 445	\$141, 620, 230
Special bus revenue.....	7, 233, 051	6, 571, 029
Baggage revenue.....	50, 647	59, 162
Mail revenue.....	367, 212	350, 353
Express revenue.....	2, 050, 936	1, 903, 066
Newspaper revenue.....	759, 559	719, 994
Miscellaneous station revenue.....	1, 542, 985	1, 165, 901
Other operating revenue.....	1, 245, 975	811, 888
Total operating revenues.....	194, 111, 810	153, 201, 623
Operating expenses:		
Equipment maintenance and garage expense.....	29, 227, 655	23, 706, 941
Transportation expense.....	51, 857, 461	43, 046, 126
Station expense.....	13, 833, 004	11, 088, 061
Traffic, solicitation, and advertising expense.....	5, 825, 242	5, 523, 180
Insurance and safety expense.....	7, 465, 356	6, 626, 963
Administrative and general expense.....	12, 130, 010	10, 172, 750
Total operation and maintenance expenses.....	120, 338, 728	² 100, 251, 236
Depreciation expense.....	15, 795, 174	14, 163, 096
Amortization chargeable to operations.....	64, 579	71, 375
Operating taxes and licenses.....	18, 787, 410	15, 589, 118
Operating rents—net.....	4, 751, 273	4, 226, 103
Total expenses.....	160, 737, 164	134, 300, 928
Net operating revenue.....	33, 374, 646	18, 900, 695

¹ This table covers both intercity and local or suburban carriers.

² Includes \$87,215 not distributed by primary operation and maintenance accounts.

NOTE.—Class I motor carriers are those having annual gross operating revenues of \$100,000 or over.

TABLE J.—*Selected financial and operating data of oil pipe-line companies, 1941, 1940, and 1939*

Item	1941	1940	1939
Miles of line operated:			
Gathering lines.....	41,858	40,300	39,573
Trunk lines.....	63,577	59,856	59,108
Investment in carrier property.....	\$885,316,742	\$841,976,902	\$829,646,464
Capital stock ¹	254,614,453	264,222,798	273,249,294
Funded debt unmatured ¹	37,906,941	30,521,018	36,713,400
Accrued depreciation—carrier property.....	468,447,755	457,540,363	445,333,349
Operating revenue.....	251,684,772	225,760,482	212,466,138
Operating expenses.....	110,448,441	101,918,970	97,129,866
Pipe-line taxes:			
U. S. Government taxes.....	50,042,248	31,690,185	22,091,927
Other than U. S. Government taxes.....	9,590,488	9,593,194	9,843,714
Pipe-line operating income.....	81,603,595	82,558,133	83,400,631
Net income.....	79,467,898	79,857,099	80,823,074
Dividend appropriations ¹	83,305,301	47,168,043	66,551,022
Number of barrels of oil received into system.....	1,638,703,424	1,421,377,134	1,228,027,537
Number of barrel-miles (trunk lines):			
Crude oil (thousands).....	324,036,547	282,192,377	265,180,515
Refined oils (thousands).....	26,748,661	23,740,946	24,429,632
Total employees:			
Average number.....	22,352	21,573	20,741
Compensation.....	\$48,016,327	\$42,564,845	\$40,974,897

¹ Excludes data for 13 companies in 1941, 11 companies in 1940, and 6 companies in 1939, as the annual reports filed by these companies relate to pipe-line departments of large oil companies and these items are not segregated for the pipe-line departments.

TABLE K.—*Revenue and traffic of carriers by water, 1941 and 1940¹*

Item	1941	1940
Freight revenue.....	\$188,497,537	\$175,796,425
Number of tons of revenue freight carried.....	63,998,334	54,079,145
Passenger revenue.....	\$20,332,775	\$16,706,976
Number of revenue passengers carried.....	8,581,613	6,207,071

¹ Compiled from quarterly reports of 136 carriers of classes A and B.

TABLE L.—*Selected financial and operating data of electric railways, 1941, 1940, and 1939*

Item	1941	1940	1939
Miles of road operated.....	3,550	3,970	4,297
Investment in road and equipment.....	\$309,501,282	\$326,127,366	\$338,730,560
Capital stock.....	143,055,845	146,132,821	149,936,367
Unmatured funded debt.....	99,245,158	110,310,358	120,441,688
Accrued depreciation—road and equipment.....	41,127,879	41,403,348	44,443,527
Railway operating revenues:			
Freight revenue.....	26,213,505	22,244,627	19,704,184
Passenger revenue.....	19,860,145	18,897,106	19,110,310
All other revenues.....	5,622,719	5,128,436	5,207,795
Total railway operating revenues.....	51,696,369	46,270,169	44,022,289
Total railway operating expenses.....	42,620,359	40,711,681	40,225,671
Taxes assignable to railway operations:			
Other than U. S. Government taxes.....	2,023,297	2,295,000	2,624,358
U. S. Government taxes.....	2,761,735	1,799,118	1,148,260
Operating income.....	4,420,702	1,532,412	90,248
Net income ¹	<i>1,944,824</i>	<i>6,297,334</i>	<i>6,885,915</i>
Dividends declared.....	1,362,726	619,252	692,016
Employees:			
Average number.....	14,129	14,054	14,155
Compensation.....	\$23,446,383	\$21,981,357	\$21,774,842

¹ Deficits in italics.

APPENDIX D

AUTHORIZATIONS UNDER VARIOUS SECTIONS OF THE INTERSTATE COMMERCE AND TRANSPORTATION ACTS, AND LOANS UNDER THE RECONSTRUCTION FINANCE CORPORATION ACT

*Certificates of convenience and necessity for construction of lines of railroad
under section 1 (18) of the Interstate Commerce Act, as amended*

Name of applicant	Location of line	Miles
Chesapeake & O. Ry. Co.....	Greenbrier and Nicholas Counties, W. Va.....	5.300
Chicago, M., St. P. & P. R. Co. and Chi- cago, R. I. & P. Ry. Co. trustees.....	Clay and Jackson Counties, Mo.....	5.200
Missouri Pac. R. Co. trustee.....	Bates County, Mo.....	1.000
Pennsylvania R. Co.....	Hancock County, W. Va., and Beaver County, Pa.....	12.200
St. Louis S. W. Ry. Co. trustee.....	Jefferson County, Ark.....	4.410
Tremont & Gulf Ry. Co.....	Ouachita and Jackson Parishes, La.....	9.500
Total number of miles.....		37.610

*Certificates of convenience and necessity for abandonment of lines of railroad
or the operation thereof, issued under section 1 (18) of the Interstate Com-
merce Act, as amended*

Name of applicant	Location of line	Miles
Arkansas Valley Ry.....	Sedgwick, Harvey, and Reno Counties, Kans...	60.000
Atchison, T. & S. F. Ry. Co.....	Noble County, Okla.....	9.870
Do.....	Marion and Butler Counties, Kans.....	27.540
Do.....	Barber County, Kans.....	9.900
Atlantic Coast Line R. Co.....	Levy County, Fla.....	.250
Do.....	Orangeburg County, S. C.....	2.100
Do.....	Lake and Marion Counties, Fla.....	17.000
Do.....	Lake County, Fla.....	1.020
Do.....	Orangeburg and Dorchester Counties, S. C.....	8.200
Baltimore & O. R. Co.....	Lewis and Braxton Counties, W. Va.....	23.400
Do.....	Philadelphia, Bucks, and Montgomery Coun- ties, Pa., Mercer, Somerset, Middlesex, Union, Essex, and Hudson Counties, N. J., and New York County, N. Y.....	189.500
Beech Creek R. Co. and New York Central R. Co.....	Indiana County, Pa.....	3.060
Boston & M. R.....	Hillsborough County, N. H.....	1.500
Do.....	do.....	2.200
Do.....	Middlesex County, Mass., and Hillsborough County, N. H.....	4.640
Do.....	Hampshire County, Mass.....	8.500
Do.....	Strafford County, N. H.....	3.000
Burlington-R. I. R. Co.....	Limestone and Hill Counties, Tex.....	22.530
California Western R. & N. Co.....	Mendocino County, Calif.....	3.220
Carolina Western R.....	Berkeley County, S. C.....	1.500
Chesapeake & O. Ry. Co.....	Fayette County, W. Va.....	3.285
Central Pac. Ry. Co. and Southern Pac. Co.....	Box Elder and Weber Counties, Utah.....	146.860
Chicago & E. I. R. Co.....	Kankakee County, Ill.....	10.940
Chicago & N. W. Ry Co. trustee.....	Butler, Polk, York, Hamilton, Clay, and Adams Counties, Neb.....	102.600
Do.....	De Kalb and Boone Counties, Ill.....	27.815
Do.....	Oneida and Forest Counties, Wis.....	9.132
Do.....	Langlade County, Wis.....	8.688
Do.....	Lawrence County, S. Dak.....	4.375
Do.....	Waupaca and Shawano Counties, Wis.....	5.258

¹ Abandonment of operation under trackage rights between Philadelphia, Pa., and New York, N. Y., but through train service continued under other arrangements.

Certificates of convenience and necessity for abandonment of lines of railroad or the operation thereof, etc.—Continued

Name of applicant	Location of line	Miles
Chicago, B. & Q. R. Co.	Adair and Macon Counties, Mo.	7.100
Do	Saunders, Butler, and Colfax Counties, Nebr.	18.760
Do	Nuckolls County, Nebr.	13.000
Do	Richardson County, Nebr.	10.740
Do	York and Polk Counties, Nebr.	7.100
Do	Thayer County, Nebr.	11.400
Chicago, M., St. P. & P. R. Co. trustees	Clay and Jackson Counties, Mo.	6.500
Chicago, R. I. & P. Ry. Co. trustees	do	9.500
Do	Cass County, Iowa	14.700
Do	Grady and Garvin Counties, Okla.	26.290
Choctaw, O. & G. R. Co. and Chicago, R. I. & P. Ry. Co. trustees	Pottawatomie County, Okla.	25.180
Cisco & N. E. Ry. Co.	Eastland, Stephens, and Throckmorton Counties, Tex.	65.500
Cleveland, C., C. & St. L. Ry. Co. and New York Central R. Co.	Elkhart and St. Joseph Counties, Ind., and Cass and Berrien Counties, Mich.	28.480
Colorado & S. Ry. Co.	Jefferson and Douglas Counties, Colo.	15.600
Concord & C. N. H. R. & Boston & M. R.	Hillsborough and Merrimack Counties, N. H.	4.640
Danville & W. Ry. Co.	Henry and Patrick Counties, Va.	26.500
Delaware & N. Ry. Co.	Delaware County, N. Y.	37.316
Denver & R. G. W. R. Co. trustees	Huerfano County, Colo.	.880
Do	Saguache County, Colo.	8.000
Do	Sevier County, Utah	17.510
Dubuque & S. C. R. Co. and Illinois C. R. Co.	Monona and Woodbury Counties, Iowa	29.410
Elmira State L. R. Co. and Erie R. Co.	Chemung County, N. Y.	6.509
El Paso & S. W. R. Co. and Southern Pac. Co.	Pima County, Ariz.	4.198
Do	Hidalgo County, N. Mex.	.429
Erie R. Co.	Bradford and Tioga Counties, Pa., and Chemung County, N. Y.	21.997
Do	Jersey City, N. J., to New York, N. Y.	2.000
Fairmont B. Ry. Co. and Western Maryland Ry. Co.	Harrison County, W. Va.	2.390
Fort Worth & D. S. P. Ry. Co. and Fort Worth & D. C. Ry. Co.	Floyd County, Tex.	1.380
Franklin & T. R. and Boston & M. R.	Merrimack County, N. H.	1.136
Fredericksburg & N. Ry. Co. et al.	Gillespie and Kendall Counties, Tex.	23.442
Georgia, F. & A. R. Co. and Seaboard A. L. Ry. Co. receivers.	Leon, Wakulla, Franklin, and Gadsden Counties, Fla.	59.670
Gettysburg & H. Ry. Co. and Reading Co.	Adams County, Pa.	2.492
Great Northern Ry. Co.	Red Lake and Pennington Counties, Minn.	6.810
Do	Traverse and Grant Counties, Minn.	16.220
Greene County R. Co.	Walton and Morgan Counties, Ga.	19.690
Gulf & Interstate Ry. Co. and Gulf, C. & S. F. Ry. Co.	Galveston County, Tex.	30.600
Harriman & N. E. R. Co.	Roane County, Tenn.	4.450
Illinois Central R. Co.	St. Clair County, Ill.	13.580
Do	Stephenson County, Ill., Green, Lafayette, and Iowa Counties, Wis.	57.360
Indiana Railroad	Marion County, Ind.	4.010
Lakeside & M. R. Co.	Ottawa County, Ohio	2.309
Laona & N. R. Co.	Forest County, Wis.	8.902
Lime Rock R. Co.	Knox County, Maine	3.500
Live Oak, P. & G. R. Co.	Taylor County, Fla.	18.000
Los Angeles & S. L. R. Co. and Union Pac. R. Co.	Beaver County, Utah	16.420
Louisville & N. R. Co.	Colbert County, Ala.	2.260
Do	Roane County, Tenn.	16.600
Do	Clark, Powell, Wolfe, and Lee Counties, Ky.	47.000
Do	Maury and Lewis Counties, Tenn.	15.000
Do	Jefferson County, Ala.	2.800
Do	Perry County, Ky.	1.038
Do	Hopkins County, Ky.	1.800
Marion & E. R. Co. and Missouri Pac. R. Co.	Williamson County, Ill.	2.140
Do	do	1.520
Do	do	1.830
Michigan Central R. Co. and New York Central R. Co.	Huron County, Mich.	5.650
Mine Hill & S. H. R. Co. and Reading Co.	Schuylkill County, Pa.	5.890
Minnesota, D. & W. Ry. Co.	Koochiching County, Minn.	.080
Mississippi River & B. T. Ry. and Missouri-Illinois R. Co. trustee.	St. Francois County, Mo.	10.650

¹ West 23rd Street ferry.

Certificates of convenience and necessity for abandonment of lines of railroad or the operation thereof, etc.—Continued

Name of applicant	Location of line	Miles
Missouri Pac. R. Co. trustee.....	Coffey and Greenwood Counties, Kans.....	29.500
Do.....	Randolph County, Ill.....	2.000
Do.....	Pike County, Ark.....	4.500
Do.....	Desha County, Ark.....	1.80
Do.....	Mississippi County, Mo.....	1.970
Do.....	Williamson County, Ill.....	2.150
Do.....	do.....	6.500
Do.....	do.....	2.130
Mount Gilead S. L. Ry. bd. of trustees, Toledo & O. C. Ry. Co., and New York Central R. Co.	Morrow County, Ohio.....	1.208
Mount Jewett, K. & R. R. Co. and Balti- more & O. R. Co.	McKean County, Pa.....	4.110
Nashville, C. & St. L. Ry.....	Jackson County, Ala., and Marion County, Tenn.....	10.420
Do.....	Lewis County, Tenn.....	10.380
Nevada Copper B. Ry. Co.....	Lyon County, Nev.....	2.500
Nevada County N. G. R. Co.....	Placer and Nevada Counties, Calif.....	20.650
New Jersey & N. Y. R. Co. trustee.....	Rockland County, N. Y.....	2.150
New York Central R. Co.....	Herkimer and Oneida Counties, N. Y.....	8.500
Norfolk & W. Ry. Co.....	Pulaski, Wythe, and Carroll Counties, Va.....	12.240
Do.....	Bland County, Va.....	4.160
Do.....	Roanoke County, Va.....	5.000
Norfolk Southern Ry. Co.....	Princess Anne County, Va.....	5.100
Northeast Oklahoma R. Co.....	Cherokee and Crawford Counties, Okla.....	8.113
Northern Pac. Ry. Co.....	Pierce County, Wash.....	6.229
Northwestern Pac. R. Co.....	Marin County, Calif.....	3.820
Do.....	Sonoma County, Calif.....	6.596
Oil Fields & S. F. Ry. Co. and Atchison, T. & S. F. Ry. Co.	Creek County, Okla.....	4.200
Oklahoma Central R. Co. and Atchison, T. & S. F. Ry. Co.	McClain and Grady Counties, Okla.....	41.210
Oregon S. L. R. Co. and Union Pac. R. Co.....	Cassia County, Idaho.....	16.760
Do.....	Bingham County, Idaho.....	3.901
Do.....	Madison County, Idaho.....	4.410
Do.....	Cache County, Utah.....	2.950
Oregon-Washington R. & N. Co. and Union Pac. R. Co.	Shoshone County, Idaho.....	.850
Pacific Electric Ry. Co.....	San Bernardino County, Calif.....	1.500
Do.....	San Gabriel County, Calif.....	6.217
Pennsylvania R. Co.....	Chester County, Pa.....	2.920
Do.....	Westmoreland County, Pa.....	3.420
Pennsylvania R. Co. and Monongahela Ry. Co.	Fayette County, Pa.....	1.370
Pennsylvania, O. & D. R. Co. and Pennsylv- ania R. Co.	Tuscarawas County, Ohio.....	1.500
Do.....	Muskingum and Coshocton Counties, Ohio.....	30.100
Peoples Ry. Co. and Reading Co.....	Schuylkill County, Pa.....	1.560
Pere Marquette Ry. Co.....	Ionia County, Mich.....	11.900
Do.....	Lapeer County, Mich.....	30.060
Do.....	Van Buren County, Mich.....	3.140
Peterborough & H. R. and Boston & M. R. Pittsburgh, C. & Y. Ry. Co.	Hillsborough County, N. H.....	6.520
Pittsburgh, L. & W. R. Co.....	Allegheny County, Pa.....	3.900
Portland Term. Co.....	Columbia County, Ohio.....	7.400
Port San Luis Transp. Co.....	Cumberland County, Maine.....	.395
Reading Co.....	San Luis Obispo County, Calif.....	12.110
Rio Grande & E. P. Ry. Co.....	Schuylkill County, Pa.....	1.583
Roby & N. R. Co.....	Webb County, Tex.....	2.890
Rockingham R. Co.....	Fisher County, Tex.....	4.674
Rocky Mountain & S. F. Ry. Co. and Atchi- son T. & S. F. Ry. Co.	Richmond County, N. C.....	1.230
Roscoe, S. & P. Ry. Co.....	Colfax County, N. Mex.....	5.790
St. Louis & Hannibal R. Co.....	Seurry County, Tex.....	17.770
St. Louis-S. F. Ry. Co. trustees.....	Ralls County, Mo.....	17.800
St. Louis-S. F. Ry. Co. trustees.....	Adair and Cherokee Counties, Okla., and Wash- ington County, Ark.....	91.160
St. Louis-S. F. Ry. Co. trustees and Kansas City S. Ry. Co.	Jasper County, Mo.....	.256
San Behito & R. G. V. Ry. Co. trustee.....	Cameron County, Tex.....	6.410
Do.....	do.....	9.330
Do.....	do.....	5.930
San Diego & A. E. Ry. Co.....	San Diego County, Calif.....	3.220
Schoharie Valley Ry. Co.....	Schoharie County, N. Y.....	4.258
Schuylkill Valley Nav. & R. Co. and Read- ing Co.	Schuylkill County, Pa.....	.195
Seaboard Air Line Ry. Co. and receivers.....	Beaufort County, S. C.....	3.500
Do.....	St. Clair County, Ala.....	8.000
Sibley, L. B. & S. Ry. Co.....	Webster, Bienville, and Red River Parishes, La.....	27.500
Silverton Northern R. Co.....	San Juan County, Colo.....	15.800

Certificates of convenience and necessity for abandonment of lines of railroad or the operation thereof, etc.—Continued

Name of applicant	Location of line	Miles
Southern Pac. R. Co. and Southern Pac. Co.	Fresno County, Calif.	.820
Do.	Los Angeles County, Calif.	13.275
Do.	do.	5.915
Do.	Orange County, Calif.	1.099
Do.	San Francisco County, Calif.	1.567
Do.	San Benito County, Calif.	5.440
Do.	Stanislaus and Merced Counties, Calif.	21.097
Do.	Madera County, Calif.	11.603
Do.	San Bernardino County, Calif.	1.795
Susquehanna & N. Y. R. Co.	Bradford, Sullivan, and Lycoming Counties, Pa.	67.680
Texarkana & F. S. Ry. Co. and Kansas City S. Ry. Co.	Sevier County, Ark.	5.744
Texas & N. O. R. Co.	Caldwell County, Tex.	14.650
Do.	St. Martin Parish, La.	2.200
Do.	do.	5.700
Do.	Colorado and Fayette Counties, Tex.	24.430
Do.	Ellis and Kaufman Counties, Tex.	27.350
Texas & Pac. Ry. Co.	Erath County, Tex.	2.900
Tionesta Valley Ry. Co.	Warren and Forest Counties, Pa.	14.127
Valley R. Co. and Baltimore & O. R. Co.	Augusta and Rockbridge Counties, Va.	36.900
Virginian Ry. Co.	Fayette County, W. Va.	3.286
Visalia Electric R. Co.	Tulare County, Calif.	4.080
Wabash Ry. Co. receiver	Chariton and Howard Counties, Mo.	15.370
Western Allegheny R. Co.	Butler and Lawrence Counties, Pa.	26.500
Western Maryland Ry. Co.	Tucker County, W. Va.	5.410
Do.	Mineral County, W. Va.	.390
Do.	Allegany County, Md.	.940
Do.	do.	1.200
Wichita Falls & O. Ry. Co., Wichita Falls & O. R. Co. of Okla., Wichita Valley Ry. Co., and Wichita Falls & S. R. Co.	Wichita and Clay Counties, Tex., and Jefferson County, Okla.	34.650
Yazoo & M. V. R. Co.	Yazoo and Sharkey Counties, Miss.	4.690
Do.	Leland and Yergeer Counties, Miss.	16.000
Total number of miles.		2,407.137

Certificates of convenience and necessity for acquisition and/or operation of lines of railroad issued under section 1 (18) of the Interstate Commerce Act, as amended

Name of applicant	Location of line	Miles
Almanor R. Co.	Plumas County, Calif.	13.000
Baltimore & O. R. Co.	Webster, Randolph, and Pocahontas Counties, W. Va.	38.590
Brimstone R. Co.	Scott County, Tenn.	12.400
Chesapeake & O. Ry. Co.	Rockbridge County, Va.	.980
Great Northern Ry. Co.	Flathead County, Mont.	40.044
Harriman & N. E. Ry. Co.	Roane County, Tenn.	.252
Hutchinson & N. Ry. Co.	Reno County, Kans.	1.000
Missouri Pac. R. Co. trustee	Cherokee County, Kans.	1.400
Missouri Pac. R. Corp. in Nebr. trustee	Adams County, Nebr.	1.630
New York Central R. Co.	St. Lawrence County, N. Y.	8.950
Pacific Electric Ry. Co.	Los Angeles County, Calif.	2.660
St. Louis-S. F. Ry. Co. trustees	Walker County, Ala.	1.950
St. Louis S. W. Ry. Co. trustee	Jefferson County, Ark.	1.450
St. Louis S. W. Ry. Co. of Texas trustee	Bowie County, Tex.	7.200
Springfield & S. W. R. Co.	Sangamon County, Ill.	7.781
State Line & S. R. Co.	Bradford County, Pa.	4.071
Tioga R. Co.	Tioga County, Pa.	3.490
Tremont & G. Ry. Co.	Ouachita Parish, La.	17.100
Total number of miles.		163.948

*Authorizations under section 5 (2) of the Interstate Commerce Act, as amended,
involving railroad properties*

Acquiring carrier	Owning carrier	Miles of road	How acquired
Alabama G. S. R. Co.....	Southern Ry. Co.....	2.830	Trackage rights.
Alton R. Co. and Atchison, T. & S. F. Ry. Co.....	Alton R. Co., and Atchison, Topeka & S. Fe Ry. Co.....	.640	Joint ownership.
Atchison T. & S. F. Ry. Co.....	Los Angeles & S. L. R. Co.....	1.730	Trackage rights.
Boston & M. R.....	Central Vermont Ry., Inc.....	8.400	Trackage rights.
Do.....	New York Central R. Co.....	10.500	Do.
Do.....	Maine Central R. Co.....	26.000	Do.
Do.....	Franklin & Tilton R. Co.....	5.000	Ownership of stock.
Do.....	do.....	3.800	Purchase.
Chesapeake & O. Ry. Co.....	Wheeling & L. E. Ry. Co.....		Ownership of certificates of deposit. ¹
Chicago, B. & Q. R. Co.....	Colorado & S. Ry. Co.....	2.267	Trackage rights.
Chicago G. W. Ry. Co.....	Chicago & N. W. Ry. Co.....	19.210	Do.
Chicago, M. St. P. & P. R. Co. trustees.	Kansas City S. Ry. Co.....	4.900	Purchase of one-half interest.
Do.....	do.....	12.230	Joint operating rights.
Do.....	Baltimore & O. R. Co.....	3.500	Trackage rights.
Chicago, R. I. & P. Ry. Co. trustees.	Kansas City S. Ry. Co.....	.800	Joint operating rights.
Delaware, L. & W. R. Co.....	Greene R. Co.....	8.100	Ownership of stock.
Erie R. Co.....	New York Central R. Co.....	13.480	Trackage rights.
Do.....	Pres. & Dir. of the Paterson & Hud- son River R. Co. in N. J.	13.070	Ownership of stock.
Grande Ronde Pine Co. ²	Almanor R. Co.....	13.000	Do.
Harriman & N. E. Ry. Co.....	Southern Ry. Co.....	3.500	Trackage rights.
Jones & Laughlin Steel Corp. ³	Cuyahoga Valley Ry. Co.....	17.250	Ownership of stock.
Kansas City S. Ry. Co.....	Louisiana & A. Ry. Co.....	.473	Trackage rights.
Do.....	Chicago, M., St. P. & P. R. Co.....	3.400	Purchase of one-half interest.
Do.....	Chicago, M., St. P. & P. R. Co. and Chicago, R. I. & P. Ry. Co.	.800	Joint operating rights.
Los Angeles Junction Ry. Co....	Los Angeles Union Stock Yards ³		Lease.
Louisville & N. R. Co.....	Southern Ry. Co.....	13.600	Trackage rights.
Do.....	do.....	2.890	Do.
Maine Central R. Co.....	Boston & M. R.....	9.000	Do.
Missouri Pac. R. Co.....	Missouri-Illinois R. Co.....	10.700	Purchase.
Do.....	Missouri-K-T. R. Co.....	3.500	Trackage rights.
Nevada Copper Ry. Co.....	Nevada Copper R. Co.....	40.000	Purchase.
New York Central R. Co.....	Erie R. Co.....	29.400	Trackage rights.
Do.....	St. Joseph S. B. & S. R. Co.....	39.310	Ownership of stock.
New York, O. & W. Ry. Co. trustee.	Utica, C. & B. R. Co.....	31.140	Purchase.
Do.....	Rome & Clinton R. Co.....	12.760	Lease.
New York, S. & W. R. Co. trustee.	Edgewater section of Erie Term. R. Co.	1.500	Purchase.
Do.....	Middletown & U. R. Co.....	14.300	Trackage rights.
Do.....	New York, O. & W. Ry. Co.....	127.400	Do.
Pennsylvania, O. & D. R. Co....	Pittsburgh, C., C. & S. L. R. Co.....	29.000	Do.
Do.....	Cleveland & P. R. Co.....	71.000	Do.
Pennsylvania R. Co. and Penn- sylvania Co. ²	Wabash R. Co.....		Ownership of stock.
Pittsburgh & W. R. Co.....	Pittsburgh Jet. R. Co.....	217.680	Merger.
Port San Luis Transp. Co.....	Pacific Coast Ry. Co.....	12.000	Purchase.
South San Francisco Livestock Handling Co.	South San Francisco Union Stock Yards Co. ³		Lease.
Southern Ry. Co.....	Alabama G. S. R. Co.....	2.150	Trackage rights.
Southern Iowa Ry. Co.....	Interurban Electric Ry.....	29.420	Purchase.
Springfield & S. W. R. Co.....	Baltimore & O. R. Co.....	.370	Trackage rights.
Terminal R. Assn. of St. Louis	St. Louis Term. Ry. Co.....	13.770	Lease.
Texas & N. O. R. Co.....	Chicago, R. I. & G. Ry. Co.....	4.530	Trackage rights.
Unadilla Valley Ry. Co.....	New York, O. & W. Ry. Co.....	3.090	Do.
United States Steel Corp. ³	Pittsburg, B. & L. E. R. Co.....		Ownership of additional shares of stock.
Virginian Ry. Co.....	Chesapeake & O. Ry. Co.....	3.510	Trackage rights.
Wabash R. Co.....	Wabash Ry. Co.....	2,409.440	Purchase.
Total number of miles.....		3,306.340	

¹ Joint control with New York, C. & St. L. R. Co. by purchase of certificates of deposit, representing beneficial interest of prior-lien stock of the Wheeling & L. E. Ry. Co. purchased from the first-named company.

² Holding company.

³ Livestock loading and unloading facilities.

Authorizations issued under section 5 (2) of the Interstate Commerce Act, as amended, involving water carriers

Acquiring carrier	Owning carrier	Service	How acquired
Henry Gillen's Sons Lighterage, Inc.	Gillen Bros. Inc., and Gillen Towing Corp.	Long Island Sound, N. Y.	Merger.
Great Lakes Transit Corp.....	Minnesota-Atlantic Transit Co.	Great Lakes.....	Ownership of stock.
Norfolk, B. & C. Line, Inc.....	Bull S. S. Co.....	Atlantic seaboard...	Lease of operating rights.
Russell Towboat & Moorage Co....	Luke Nichols Co.....	Columbia River.....	Purchase.
Skagit River N. & T. Co.....	Peninsula N. Co. Inc.	Puget Sound.....	Do.
States Steamship Co., and Dant & Russell, Inc. ¹	Pacific-Atlantic S. S. Co.....	West and east coasts.	Ownership of stock.

¹ Holding company.

Authorizations for acquisition of properties issued in railroad reorganization proceedings, under section 77 (f) of the Bankruptcy Act and section 5 (2) of the Interstate Commerce Act

Acquiring carrier	Owning carrier	Miles of road	How acquired
Erie R. Co., or its successor in reorganization.	Chicago & E. R. Co.....	<i>Miles</i> 249.570	Purchase.
Erie R. Co. trustees.....	Nypano R. Co.....	422.000	Do.
	Cleveland & M. V. Ry. Co.....	121.000	Do.
	New York, L. E. & W. C. & R. Co.		Ownership of stock.
	West Clarion R. Co.....		Do.
	Buffalo, B. & P. R. Co.....	25.230	Purchase.
	Columbus & E. R. Co.....	11.630	Do.
	Erie & W. V. R. Co.....	79.080	Do.
Erie R. Co., or its successor in reorganization.	Jefferson R. Co.....	45.470	Do.
	Moosic Mountain & C. R. Co.....	2.200	Do.
	New York, L. E. & W. C. & R. Co.	43.960	Do.
	Tioga R. Co.....	57.790	Do.
	West Clarion R. Co.....	.930	Do.
	Arlington R. Co.....	1.130	Do.
	Bergen County R. Co.....	9.810	Do.
	Bergen & D. R. Co.....	2.450	Do.
	Docks Connecting Ry. Co.....	.990	Do.
Erie R. Co., as reorganized.....	Long Dock Co.....	3.000	Do.
	New York, L. E. & W. D. & I. Co.		Do.
	Newark & H. R. Co.....	3.770	Do.
	Paterson, N. & N. Y. R. Co.....	11.330	Do.
	Penhorn Creek R. Co.....	5.040	Do.
	Erie Terminals R. Co.....	2.000	Do.
Erie R. Co. (reorganized company).	Northern R. Co. of N. J.....	20.710	Do.

Authorizations for acquisitions of properties issued in railroad reorganization proceedings under section 77 (f) of the Bankruptcy Act

Acquiring carrier	Owning carrier	Miles of road	How acquired
Chicago G. W. R. Co. trustees..	Leavenworth Terminal Ry. & Bridge Co.	<i>Miles</i>	Merger.
Chicago G. W. R. Co. and its trustees.	Mason City & F. D. R. Co.....	364.000	Do.
Chicago G. W. Ry. Co.....	Chicago G. W. R. Co. and its trustees.	985.000	Reorganization.
Chicago & E. I. R. Co.....	St. Paul Bridge & Terminal Ry. Co.	5.000	Do.
Erie R. Co.....	Chicago & E. I. Ry. Co.....	812.000	Do.
Kansas City, K. V. R., Inc.....	Erie R. Co. and its trustees.....	1,105.000	Do.
Savannah & A. Ry. Co.....	Kansas City, K. V. & W. R. Co.	35.000	Do.
	Savannah & A. Ry.....	142.000	Do.
	Spokane International Ry. Co. and its trustee.	139.000	Do.
Spokane International R. Co....	Coeur d'Alene & P. d'O. Ry. Co. and its trustee.	9.000	Do.

Authorization of the issuance of securities and the assumption of obligations and liabilities in respect of the securities of others under section 20a of the Interstate Commerce Act, as amended

Stock, common :

For acquisition of property including equipment-----	\$241, 845. 00
For acquisition of property other than equipment-----	¹ 9, 550
For exchange for common stock-----	25, 000. 00
For exchange for common stock previously authorized-----	2, 272, 705. 00
For exchange for preferred stock-----	77, 020. 00
For general corporate purposes (not segregated)-----	3, 895, 200. 00
For stock dividends-----	22, 735. 00
For reorganization-----	705, 000. 00
	¹ 4, 126, 642
Total-----	7, 239, 503. 00
	¹ 4, 136, 192

Stock, preferred: For reorganization----- 124, 153, 997. 50

Total stock----- { 131, 393, 502. 50
¹4, 136, 192

Bonds, collateral-trust: For retention in treasury subject to further order----- 4, 000, 000. 00

Bonds, income: For reorganization----- 101, 603, 816. 00

Bonds, mortgage:

For exchange for matured funded debt-----	15, 760, 300. 00
For extension of matured funded debt-----	9, 018, 000. 00
For extension of unmatured funded debt-----	28, 561, 700. 00
For modification of interest-----	24, 918, 000. 00
For payment of advances-----	432, 000. 00
For pledge-----	129, 249, 552. 00
For refunding purposes-----	2, 500, 000. 00
For reorganization-----	133, 320, 052. 00
For retention in treasury subject to further order-----	8, 000, 000. 00
For sale to meet unmatured funded debt-----	5, 955, 850. 00
Assumption of obligation and liability in respect of \$225,164,500.	

Total----- 357, 715, 454. 00

Total bonds----- 463, 319, 270. 00

Notes, secured :

For acquisition of equipment-----	45, 000. 00
For payment of advances-----	130, 000. 00
For pledge-----	9, 082, 000. 00
For refunding purposes-----	16, 202. 23
For reorganization-----	18, 901, 000. 00
Total -----	28, 174, 202. 23

Notes, unsecured:

For acquisition of property including equipment-----	126, 500. 00
For acquisition of property other than equipment-----	362, 698. 78
For extension of unmatured funded debt-----	4, 182, 091. 26
For payment of advances-----	4, 325, 000. 00
For sale to meet unmatured funded debt-----	550, 000. 00
Assumption of obligation and liability in respect of \$750,000.	

Total----- 9, 546, 290. 04

Total notes----- 37, 720, 492. 27

Certificates of deposit: For financial adjustment----- 24, 918, 000. 00

Certificates, trustees': For extension of matured unfunded debt----- 9, 850, 000. 00

Equipment obligations:

Assumed by carriers-----	65, 441, 000. 00
Assumption of obligation and liability in respect of \$19,567,000.	

Grand total securities----- { 732, 642, 264. 77
¹4, 136, 192

¹ Shares of stock without par or nominal value.

Certificates of approval of loans issued under section 5 of the Reconstruction Finance Corporation Act, as amended

Carrier	Loan approved
Bangor & A. R. Co.....	¹ \$4,000,000
Chicago & E. I. R. Co.....	¹ 1,200,000
Erie R. Co.....	14,000,000
New York, O. & W. Ry. Co. trustee.....	¹ 162,000
Norfolk S. Ry. Co.....	368,000
Seaboard Air Line Ry. Co. receivers.....	² 4,626,000
Total.....	³ 24,356,000

¹ Purchase of securities of carrier by Reconstruction Finance Corporation.

² Approved as either purchase, or purchase and guaranty, or guaranty of carrier's securities by Reconstruction Finance Corporation.

³ In addition, purchase approval of \$342,000 was granted to Tennessee Central Ry. Co., but was later revoked upon request of applicant.

Status of outstanding loans under section 210 of the Transportation Act, 1920, as amended

PRINCIPAL AND INTEREST IN DEFAULT ON OCTOBER 1, 1942

Carrier	Principal	Interest
Alabama, T. & N. R. Corp.....	\$151,500.00	\$77,265.00
Des Moines & C. I. R.....	633,500.00	539,656.34
Fort Dodge, D. M. & S. R. Co.....	200,000.00	139,164.91
Gainesville & N. W. R. Co. ¹	75,000.00	---
Georgia & F. Ry. receiver.....	792,000.00	617,760.00
Minneapolis & St. L. R. Co.....	1,382,000.00	1,579,589.73
Missouri & N. A. Ry. Co. ¹	3,500,000.00	---
Salt Lake & U. R. Co. ¹	872,600.00	---
Seaboard Air Line Ry. Co.....	14,440,577.83	9,836,731.43
Seaboard B.-L. Co.....	1,256,000.00	307,446.96
Virginia S. R. Co. ¹	38,000.00	---
Waterloo, C. F. & N. Ry. Co.....	1,260,000.00	1,496,983.29
Wilmington, B. & S. R. Co.....	90,000.00	67,500.00
Total.....	24,691,177.88	14,662,097.66

¹ Assets of these carriers have been completely liquidated, and were insufficient to meet these claims.

Certificates issued in settlement under section 204 of the Transportation Act, 1920, as amended January 7, 1941

Carrier	Amount
Sumter & C. Ry. Co.....	\$10,261.05
Total.....	10,261.05

Claims dismissed under section 204 of the Transportation Act, 1920, as amended January 7, 1941

Cement, T. & T. R. Co.
 Chattahoochee Valley Ry. Co.
 Death Valley R. Co.
 East B. T. R. R. & Coal Co.
 Flemingsburg & N. R. Co.
 Magma A. R. Co.
 Mount Hope M. R. Co.
 Nelson & A. Ry. Co.

Niagara Junction Ry. Co.
 Philadelphia, B. & N. E. R. Co.
 Red River & G. R. Co.
 Rio Grande & E. P. Ry. Co.
 River Terminal Ry. Co.
 South Shore R. Co.
 Tennessee R. Co.
 Tuckerton R. Co.
 Upper Merion & P. R. Co.

APPENDIX E

RAILROAD COMPANIES IN REORGANIZATION (OR RECEIVERSHIP) PROCEEDINGS

	<i>Mileage operated 1941</i>
Proceedings under section 77:	
Akron, Canton & Youngstown Railway Company-----	171
Alabama, Tennessee & Northern Railroad Corporation-----	218
Boston & Providence Railroad Corporation ¹ -----	---
Boston Terminal Company-----	---
Central of Georgia Railway Company-----	1, 816
Central Railroad Company of New Jersey-----	616
Chicago & North Western Railway Company-----	8, 267
Chicago Great Western Railroad Company ² -----	1, 502
Chicago, Indianapolis & Louisville Railway Company-----	549
Chicago, Milwaukee, St. Paul and Pacific Railroad Company-----	10, 821
Chicago, Rock Island and Pacific Railway Company (system)-----	7, 950
Denver & Rio Grande Western Railroad Company-----	2, 431
Duluth, South Shore and Atlantic Railway Company (system)---	576
Erie Railroad Company (system) ² -----	2, 377
Florida East Coast Railway Company-----	685
Fonda, Johnstown & Gloversville Railroad Company-----	20
Fort Dodge, Des Moines & Southern Railroad Company (electric)--	149
Fort Smith, Subiaco & Rock Island Railroad Company-----	15
Meridian & Bigbee River Railway Company-----	50
Minneapolis, St. Paul & Sault Ste. Marie Railway Company-----	4, 277
Missouri Pacific Railroad Company (system)-----	10, 237
New Jersey and New York Railroad Company-----	42
New York, New Haven & Hartford Railroad Company (system)---	1, 839
New York, Ontario & Western Railway Company-----	547
New York, Susquehanna & Western Railroad Company-----	262
Oregon, Pacific & Eastern Railway Company ² -----	20
St. Louis-San Francisco Railway Company-----	4, 766
St. Louis Southwestern Railway Company-----	1, 616
Spokane International Railway Company ² -----	152
Tampa Northern Railroad Company-----	7
Western Pacific Railroad Company-----	1, 195
Wilkes-Barre & Eastern Railroad Company ³ -----	---
Yosemite Valley Railway Company-----	78

¹ Operated by New York, New Haven & Hartford Railroad for account of the Boston & Providence Railroad Corporation.

² In these cases reorganization has progressed to the point where the properties have been transferred to, and are being operated by, the reorganized companies, but the trustees in bankruptcy have not yet been discharged.

³ Operation discontinued as of March 26, 1939. 8.02 miles of road leased to and operated by the Erie Railroad.

RAILROAD COMPANIES IN REORGANIZATION (OR RECEIVERSHIP)
PROCEEDINGS—Continued

	<i>Mileage operated 1941</i>
Receivership proceedings (steam railroads) :	
California & Oregon Coast Railroad Company-----	15
Chicago, Attica & Southern Railroad Company-----	154
Chicago, Springfield & St. Louis Railway Company-----	8
Georgia & Florida Railroad-----	408
Georgia, Southwestern & Gulf Railroad (system)-----	36
Louisiana Southern Railway Company-----	15
Minneapolis & St. Louis Railroad Company-----	1,409
Norfolk Southern Railroad Company-----	733
Pittsburg, Shawmut & Northern Railroad Company-----	191
Rio Grande Southern Railroad Company-----	172
Rutland Railroad Company-----	407
Seaboard Air Line Railway Company (system)-----	4,307
South Dayton Railway Company-----	---
Tallulah Falls Railway Company-----	57
Virginia & Truckee Railway-----	47
Wabash Railway Company (system)-----	2,703
Waco, Beaumont, Trinity & Sabine Railway Company-----	41
Wilmington, Brunswick & Southern Railroad Company-----	30
Wisconsin Central Railway Company ⁴ -----	---
Yreka Western Railroad Company-----	8
Receivership proceedings (electric railroads) :	
Bellaire-Southwestern Traction Company ⁵ -----	---
Chicago, Aurora & Elgin Railroad Company-----	65
Chicago, North Shore & Milwaukee Railroad Company ⁶ -----	130
Waterloo, Cedar Falls & Northern Railway Company-----	97

⁴ Owned mileage 976, operated by Minneapolis, St. Paul & Sault Ste. Marie Railway, a subsidiary of the Canadian Pacific Railway.

⁵ Bellaire-Southwestern Traction Company with 2 miles of owned road is operated by the Co-operative Transit Company.

⁶ Concurrent bankruptcy petitions filed under section 77 and chapter X; district court approved the latter and dismissed the former; decision appealed to circuit court.

APPENDIX F

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1942

An Act making appropriations for the Executive Office * * * for the fiscal year ending June 30, 1942, and for other purposes, approved April 5, 1941:

For 11 commissioners, secretary, and for all other authorized expenditures necessary in the execution of laws to regulate commerce, including 1 chief counsel, 1 director of finance, and 1 director of traffic, at \$10,000 each per annum, traveling expenses, et cetera:

General..... \$2, 580, 940. 00

Second Deficiency Appropriation Act,
1941..... 150, 000. 00

\$2, 730, 940. 00

To enable the Interstate Commerce Commission to enforce compliance with section 20 and other sections of the Interstate Commerce Act, as amended by the act approved June 29, 1906, the Transportation Act, 1920 (49 U. S. C. 20), and the Transportation Act of 1940, including the employment of necessary special accounting agents or examiners:

Accounts..... 840, 000. 00

To enable the Interstate Commerce Commission to keep informed regarding and to enforce compliance with acts to promote the safety of employees and travelers upon railroads and the act requiring common carriers to make reports of accidents and authorizing investigations thereof; and to enable the Interstate Commerce Commission to investigate and test appliances intended to promote the safety of railway operation, as authorized by the joint resolution approved June 30, 1906 (45 U. S. C. 35), and the provision of the Sundry Civil Act approved May 27, 1908 (45 U. S. C. 36, 37), to investigate, test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation, inspectors, and for traveling expenses:

Safety of employees..... 506, 000. 00

For all authorized expenditures under section 25 of the Interstate Commerce Act, as amended by the Transportation Act, 1920, the Act of August 26, 1937 (49 U. S. C. 26), and the Transportation Act of 1940, with respect to the provision thereof under which carriers by railroad subject to the act may be required to install automatic train-stop or train-control devices which comply with specifications and requirements prescribed by the Commission, including investigations and tests pertaining to block-signal and train-control systems, as authorized by the joint resolution approved June 30, 1906 (45 U. S. C. 35), and including the employment of the necessary engineers, and for traveling expenses:

Signal and train-control devices..... 126, 810. 00

For all authorized expenditures under the provisions of the act of February 17, 1911, entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto" (45 U. S. C. 22), as amended by the act of March 4, 1915, extending "the same powers and duties with respect to all parts and appurtenances of the locomotive and tender" (45 U. S. C. 30), and amendment of June 7, 1924 (45 U. S. C. 27) providing for the appointment from time to time by the Interstate Commerce Commission of not more than 15 inspectors in addition to the number authorized in the first paragraph of section 4 of the act of 1911 (45 U. S. C. 26) and the amendment of June 27, 1930 (45 U. S. C. 24, 26) including such legal, technical, stenographic, and clerical help as the business of the offices of the director of locomotive inspection and his 2 assistants may require, and for traveling expenses:

Locomotive inspection.....

\$475, 000. 00

To enable the Interstate Commerce Commission to carry out the objects of the act entitled "An Act to amend an Act entitled 'An Act to regulate commerce', approved February 4, 1887, and all Acts amendatory thereof, by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities," approved March 1, 1913, as amended by the act of June 7, 1922 (49 U. S. C. 19a) and by the "Emergency Railroad Transportation Act, 1933" (49 U. S. C. 19a), including one director of valuation at \$10,000 per annum, one valuation engineer at \$7,500 per annum, and traveling expenses:

Valuation.....

640, 000. 00

For all authorized expenditures necessary to enable the Interstate Commerce Commission to carry out the provisions of part II of the Interstate Commerce Act and section 5, part I, of the Interstate Commerce Act insofar as applicable to common carriers subject to part II (Transportation Act of 1940), including one director at \$10,000 per annum and other personal services in the District of Columbia and elsewhere; traveling expenses; supplies; services and equipment; not to exceed \$1,000 for purchase and exchange of books, reports, newspapers, and periodicals; contract stenographic reporting services; purchase (not to exceed \$18,000), exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles when necessary for official use in field work; not to exceed \$5,000 for the purchase of evidence in connection with investigations of apparent violations of said act: Provided, that joint-board members may use Government transportation requests when traveling in connection with their duties as joint-board members:

Motor-transport regulation.....

3, 690, 000. 00

For all printing and binding for the Interstate Commerce Commission, including reports in all cases proposing general changes in transportation rates and not to exceed \$17,000 to print and furnish to the States, at cost, report form blanks, and the receipts from such reports and blanks shall be credited to this appropriation:

Printing and binding..... \$200, 000. 00

Second Deficiency Appropriation Act,
1941..... 4, 000. 00

204, 000. 00

For all necessary expenses to enable the Interstate Commerce Commission, for the purpose of promoting the national security and defense, to adopt measures for preventing shortages of railroad equipment and congestion of traffic, and expediting the movement of cars by railroads through terminals, and related activities:

National defense ¹	\$110, 000. 00	
Immediately available in regular Appropriation Act of 1943 (56 Stat., pp. 413-4).....	87, 500. 00	\$197, 500. 00
Total.....		9, 410, 250. 00
Amount obligated under appropriations for the fiscal year ended June 30, 1942:		
General.....		2, 645, 264. 31
Accounts.....		790, 557. 00
Safety.....		489, 848. 23
Signal and train-control devices.....		117, 677. 65
Locomotive inspection.....		470, 500. 15
Valuation.....		611, 810. 04
Motor-transport regulation.....		3, 580, 110. 96
Printing and binding.....		123, 228. 99
National defense.....		119, 437. 08
*Total.....		8, 948, 434. 41
Unobligated balances of appropriations:		
General.....		85, 675. 69
Accounts.....		49, 443. 00
Safety.....		16, 151. 77
Signal and train-control devices.....		9, 132. 35
Locomotive inspection.....		4, 499. 85
Valuation.....		28, 189. 96
Motor-transport regulation.....		100, 889. 04
Printing and binding.....		80, 771. 01
National defense.....		78, 062. 92
Total.....		461, 815. 59
Total.....		9, 410, 250. 00
Statement of receipts from fees paid during the fiscal year ended June 30, 1941, as required by section 313 of Public No. 212, Seventy-second Congress:		
Certifying tariffs and records.....		2, 869. 20
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